

EXHIBIT 12

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 RUBY FREEMAN and WANDREA MOSS,

4 Plaintiffs,

5 v.

24 CV 6563 (LJL)
24 MC 353 (LJL)

6 RUDOLPH W. GIULIANI,

7 Defendant.
-----x

Hearing

8 New York, N.Y.
9 January 6, 2025
10:00 a.m.

10 Before:

11 HON. LEWIS J. LIMAN,

12 District Judge

13 APPEARANCES

14 WILLKIE FARR & GALLAGHER LLP
Attorneys for Plaintiffs

15 BY: AARON E. NATHAN
16 MERYL GOVERNSKI
MICHAEL GOTTLIEB

-and-

17 PROTECT DEMOCRACY
18 BY: RACHEL E. GOODMAN

19 CAMMARATA & DE MEYER P.C.
Attorneys for Defendant
20 BY: JOSEPH CAMMARATA
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22
23
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(Hearing resumed; case called)

MR. NATHAN: Good morning. Aaron Nathan from Willkie Farr & Gallagher for the plaintiffs. I'm joined again by my colleagues Meryl Governski, Michael Gottlieb, and Rachel Goodman from Protect Democracy, and a law clerk from our firm who will be assisting us with the presentation.

THE COURT: Good morning.

MR. CAMMARATA: Joseph Cammarata, Cammarata & De Meyer P.C. for the defendant Rudolph W. Giuliani. And with me I have my law partner Suzanne De Meyer just to assist me and also my paralegal. Good morning.

THE COURT: Good morning, Mr. Cammarata. And I see Mr. Giuliani on the monitor.

Mr. Giuliani, can you see us and can you hear us or can you see me?

THE WITNESS: I can, your Honor. I can see you fine and I can see the lawyers also.

THE COURT: And Mr. Giuliani, if at any point you cannot see us or you cannot hear us, you'll let us know; is that correct?

THE WITNESS: I will, your Honor.

THE COURT: If you do not, then we are going to assume you can see and hear the proceedings. Is that understood?

THE WITNESS: Understood.

THE COURT: Mr. Cammarata, I understand that your

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1 client is appearing today remotely at your request. Is that
2 correct?

3 MR. CAMMARATA: That's correct, your Honor.

4 THE COURT: And you waive any objections based upon
5 the fact that he's not here present in person; is that right?

6 MR. CAMMARATA: I do.

7 THE COURT: Then unless the parties have anything for
8 me, we can proceed with Mr. Cammarata's redirect.

9 Mr. Nathan, do you have anything for me before we
10 proceed?

11 MR. NATHAN: No, your Honor.

12 THE COURT: Mr. Cammarata, do you have anything before
13 for me before we proceed?

14 MR. CAMMARATA: There may be one issue I'd like to
15 bring to the Court's attention. There might be one or two
16 documents I may have to, if possible, call Mr. Nathan, recall
17 him to testify on one or two documents. Otherwise I may have
18 to try and introduce those documents myself, if I intend to.

19 THE COURT: Well, I'll address that when the time
20 comes, but you'll have to justify for me why it is that you're
21 entitled to recall him. That's assuming that the plaintiffs
22 object to that. But let's proceed with Mr. Giuliani's
23 examination.

24 MR. CAMMARATA: I understand, thank you.

25 THE COURT: You may proceed.

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1 THE WITNESS: Your Honor? Do you want me to report to
2 you on the efforts that I made about finding what I could over
3 the weekend and the efforts I made or do you want me to wait?
4 It's up to you.

5 THE COURT: I want you to play witness and not lawyer.
6 Mr. Cammarata will choose to ask the questions that he chooses
7 to ask.

8 THE WITNESS: Okay. Thank you. I just want you to
9 know I have them. Some.

10 MS. GOVERNSKI: The only question is whether we're
11 dealing with the turnover at all and if he's eliciting
12 questions, should we do all of that today?

13 THE COURT: I'm not inclined to do that today. But
14 I'll hear from you. In other words, if they offer testimony
15 about compliance with the turnover order, I'm not going to
16 require the plaintiffs to cross-examine Mr. Giuliani. I made
17 it clear on Friday that you would be under no obligation to
18 cross-examine Mr. Giuliani, and I'm going to stick to that.
19 But, depending on where we stand in terms of time, if you want
20 to do it, I'll listen to you.

21 Mr. Cammarata, why don't you proceed. And please
22 proceed from the podium.

23 MR. CAMMARATA: From the podium?

24 THE COURT: Yes. You can move the podium if it is
25 easier for you with the electronics.

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Giuliani - Redirect

1 Is there a way we can have a simple backdrop of
2 Mr. Giuliani without the flag behind him? Can you take that
3 down, sir?

4 THE WITNESS: Sure. It might take a moment or two.
5 But, a different -- that's just the one we use for the show.
6 But okay. Find a simple background.

7 THE COURT: Just a simple background. Or the
8 background where you are.

9 THE WITNESS: We could just keep it black.

10 THE COURT: Any objection to keeping it black,
11 Mr. Nathan?

12 MR. NATHAN: Objection to a black background? No.

13 THE COURT: Go ahead, Mr. Cammarata. Thank you,
14 Mr. Giuliani.

15 THE WITNESS: Is that okay?

16 THE COURT: Yes. Thank you, sir.

17 RUDOLPH W. GIULIANI,

18 having been previously sworn, testified as follows:

19 REDIRECT EXAMINATION

20 BY MR. CAMMARATA:

21 Q. Good morning, Mayor Giuliani.

22 A. Good morning, Mr. Cammarata.

23 Q. Regarding your prior counsel Kenneth Caruso, were you asked
24 to provide documents to your prior attorney Kenneth Caruso?

25 A. Yes, sir.

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Giuliani - Redirect

1 Q. What were you asked to provide to your prior attorney, if
2 anything?

3 A. I was asked to provide documents to him, particularly at
4 the beginning, but I can't tell you exactly which ones. I also
5 at times, he explained things to me and I raised questions with
6 him, and then there came a period of time I'm a little hazy
7 about when, when he literally stopped calling me and was
8 communicating with me through other lawyers and through
9 Dr. Ryan. And I tried to get him directly, and he just
10 wouldn't return my calls.

11 Q. Okay.

12 A. So it broke down, it broke down. For half the time it
13 worked and half the time it broke down. That's about the best
14 I can do in giving you an analysis of.

15 Q. Please explain the relationship between you and Kenneth
16 Caruso in October 2024 and November 2024.

17 THE COURT: Can we be a little more precise in terms
18 of the time? That's a pretty broad time frame in terms of this
19 case.

20 Q. Mayor Giuliani, please explain the relationship between you
21 and Kenneth Caruso during the first two weeks of November 2024.

22 A. I'm -- could you help me with when he first entered the
23 case? Just give me that date. Because I could use that date
24 and that would help me divide up the months.

25 MS. GOVERNSKI: Objection, your Honor, to --

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1 THE COURT: Sustained.

2 A. I can't tell you exactly what it was like on November on
3 July -- do a calculation of how long the relationship seemed
4 perfectly normal and then when the relationship changed.

5 I'll do it backwards. It would seem to me that by the
6 beginning of November, we were in a situation where he wasn't
7 communicating, he wasn't returning my calls or taking my calls.

8 Q. How often did you attempt to call Mr. Kenneth Caruso?

9 A. Sometimes one time a day, sometimes two. Possibly three.
10 But one or two for sure, and I can't say every day, but almost
11 every day. And then I would receive messages from him, from
12 Gary Rosen, and I would receive messages from him from
13 Dr. Maria, possibly seems to me someone else gave me a message
14 from him too, but I can't remember who it was.

15 Q. And those messages, those messages were never directly sent
16 to you; is that correct?

17 MS. GOVERNSKI: Objection. Leading.

18 THE COURT: Sustained.

19 Q. Were those --

20 A. They were indirectly. I'm sorry.

21 Q. I have to repeat the question.

22 Were any of those messages that you just described
23 sent to you directly?

24 A. Well, they weren't face-to-face or voice-to-voice. They
25 were sent through another person for me, and I received it in

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Giuliani - Redirect

1 that form.

2 Q. Explain why the documents in this matter were produced to
3 plaintiffs after I became your counsel.

4 MS. GOVERNSKI: Objection. Leading.

5 THE COURT: Sustained. Both because it's leading and
6 it presumes facts not in evidence.

7 Q. Mr. Giuliani, what actions did you take after learning
8 about the Court order for providing documents for discovery?

9 MS. GOVERNSKI: Objection. Vague.

10 THE COURT: Sustained.

11 A. Well, it would depend.

12 THE COURT: The objection is sustained, Mr. Giuliani.

13 THE WITNESS: Oh, I'm sorry. Excuse me, your Honor.

14 Q. When you learned about the Court order regarding discovery
15 in this proceeding, what did you do?

16 MS. GOVERNSKI: Objection. Lack of foundation,
17 leading.

18 THE COURT: Let's establish that there came a time
19 that he learned of an order and what the order was that you're
20 saying that he learned of.

21 MR. CAMMARATA: Okay.

22 Your Honor, I have this 429-page document up on the
23 screen shared with the Court and my client. I would like
24 marked as Plaintiff's Exhibit A -- I'm sorry, I mean
25 Defendant's Exhibit A for identification.

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Giuliani - Redirect

1 THE COURT: Do you have a copy for me? Or do you want
2 to identify it for me?

3 MR. CAMMARATA: Yes. It is docket no. 143.

4 THE COURT: In which case?

5 MR. CAMMARATA: In the homestead action CV 6563.

6 THE COURT: Hold on for a second. That's
7 Mr. Giuliani's declaration, is that right, plus the
8 attachments?

9 MR. CAMMARATA: Yes.

10 THE COURT: Any objection?

11 MS. GOVERNSKI: Yes. We would object to his
12 declaration as hearsay.

13 THE COURT: Didn't I already receive his declaration?
14 I think I did. It's already in evidence. The declaration is
15 in evidence and the documents are not in for the truth of the
16 matter but for authenticity purposes until you establish, offer
17 them for the truth.

18 MS. GOVERNSKI: We don't understand how he can offer
19 an out-of-court statement to his client for the truth.

20 THE COURT: He testified to it on Friday. He affirmed
21 to the truth of all of the statements that were in it, and you
22 had the opportunity to cross-examine him. It's already in
23 evidence.

24 MS. GOVERNSKI: Okay, your Honor.

25 MR. CAMMARATA: Your Honor, for housekeeping I'm going

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1 to be referring to the exhibits in here. Would you like me to
2 individually put each exhibit that I intend to use from the
3 declaration into separate evidence?

4 THE COURT: Well, if you're going to offer them for
5 anything other than the fact that I gather these were documents
6 that your client says were produced.

7 MR. CAMMARATA: Yes.

8 THE COURT: That's the sole purpose for which you're
9 offering them. Not for the truth of any statements contained
10 in them.

11 MR. CAMMARATA: No, just for what was produced.

12 THE COURT: Any objection to the document being
13 treated as a whole?

14 MS. GOVERNSKI: No, as long as it's not for the truth.

15 THE COURT: Okay. Go ahead, Mr. Cammarata.

16 Q. Mayor Giuliani, what's on the screen right now is a
17 document that's been premarked or is Defense Exhibit A.

18 A. Yes, sir.

19 Q. Do you see that up on the screen?

20 A. I see it.

21 Q. What do you recognize that document to be?

22 A. That was, I see the first page of it, and that is the
23 document, the declaration that I submitted and testified about
24 on Friday.

25 Q. Now, I'm going to slowly scroll down to page 5. Is that

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Giuliani - Redirect

1 your signature on the document?

2 A. Yes, sir, that's my Docusigned signature. I can always
3 tell.

4 Q. I'm going to direct your attention to the top-right portion
5 of the document whereby it is Bates stamped. Do you see where
6 it says Defendant's Exhibits 1/6/2025 007?

7 A. At the very top? Yes, I do see that.

8 Q. What do you recognize this document to be?

9 A. This was a response. As it says, this is an amended
10 response, so some additional responses to the plaintiffs' first
11 set of interrogatories. Some additional information that they
12 asked for that originally we objected to and then provided.

13 Q. When you say "they," what do you mean?

14 A. Oh. The plaintiffs.

15 Q. If we go down, going to scroll down to page 13. Can you
16 please tell me the date of that document.

17 A. It looks like I signed it on December 7, 2024.

18 Q. I'm sorry. One more page. Can you tell me what this page
19 is.

20 A. The page I'm looking at now is the title, the title page
21 with the title of the action and the beginning of -- this is
22 the verification page.

23 Q. Is that your signature on the page?

24 A. If you move it up just a little. I know it's my signature,
25 but I'm only looking at it.

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Giuliani - Redirect

1 Now I can tell you for sure it's my signature.

2 Q. What's the date next to your signature?

3 A. It says December 7, 2024.

4 Q. You recall providing this response?

5 A. Yes, I do, I recall providing it and testifying about it.

6 Q. Mr. Giuliani, as I scroll within this document, I'm going
7 to scroll and just -- I'd like to direct your attention to
8 interrogatory 3.

9 A. Yes, I see that, sir. I see the question. The
10 interrogatory.

11 Q. Okay. Please read into the record what was provided under
12 interrogatory 3(a.)?

13 MS. GOVERNSKI: Objection.

14 THE COURT: Sustained. I don't need him to read the
15 record.

16 MR. CAMMARATA: All right.

17 Q. Mr. Giuliani, it seems that there is Exhibits 1 to 17 in
18 this interrogatory response. Do you see that?

19 A. Yeah, I don't see it. I remember it. I've gotten to
20 Exhibit 13 in what you've shown me, but I do remember we
21 testified about this quite a bit on Friday. This is Exhibit 1
22 to 17.

23 Q. Did you provide these documents in response?

24 A. Either I did or one of my associates who found it, right.
25 More or less I did, but couple of these were probably found by

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1 Ted or Dr. Maria.

2 Q. And these documents were provided to plaintiffs; is that
3 correct?

4 MS. GOVERNSKI: Objection. Leading.

5 THE COURT: Overruled. Overruled.

6 Q. Who were these documents provided to?

7 A. To plaintiffs.

8 Q. I'm sorry. We can go back to the previous question.

9 Were these documents provided to plaintiffs?

10 THE COURT: I've got it.

11 MR. CAMMARATA: I didn't hear what he said, I'm sorry.

12 THE COURT: He said "yes."

13 Q. Okay. Mayor Giuliani, I'd like to direct your attention to
14 the screen and it is --

15 A. Yes, sir.

16 Q. -- top-right corner. It's Bates stamped Defendant's
17 Exhibits 1/6/2025 at 176. Do you see that?

18 A. I do.

19 Q. Can you tell me what this document is, please.

20 A. It's the response to the first set of interrogatories.
21 Plaintiffs' first set of interrogatories. It is a verification
22 page apparently.

23 Q. Can you please tell me if that's your signature on this
24 document?

25 A. If you just move it down, I bet I can. Yes. That's my

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signature.

Q. Please tell me the date on this document.

A. That's December 1, 2024.

Q. Were these responses submitted to plaintiff?

A. Yes, yes, they were.

Q. Mayor Giuliani, I'd like to direct your attention to the screen whereby it's projecting Bates stamp 184. Do you see this document?

A. I do, I do, 1/6/2025, 184. Is that it?

Q. Yes.

A. Okay. I have it, yes, sir.

Q. Can you please tell me what document this is.

A. Well, this would be the second amended response to plaintiffs' first set of interrogatories to provide the information that was in dispute in the first.

Q. Regarding interrogatory 4, did you provide a response?

A. Number 4.

Q. Did you provide a response?

A. Yes, sir, I see it. May I ask is that the first one in this affidavit? Yes. Okay, thank you. Okay.

Q. Regarding interrogatory 4, do you see where it says a second amended response on the screen?

A. Well, I don't because my screen is smaller, but I remember it, yeah.

Q. Now, was this response provided to plaintiffs?

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Giuliani - Redirect

1 A. Yes, sir.

2 Q. I'm going to scroll a little bit further down. Do you see
3 where it says interrogatory number 8?

4 A. I do.

5 Q. Did you provide a response to interrogatory number 8?

6 A. Yes, sir, it's right there. It's right under second
7 amended response.

8 Q. Okay.

9 A. I had originally objected to this --

10 Q. Okay.

11 A. -- and you convinced me that it fell within the judge's
12 order and there was no --

13 THE COURT: So, let me --

14 A. -- privilege or whatever.

15 THE COURT: Either I'm going to strike that testimony
16 or --

17 THE WITNESS: I'm sorry, your Honor.

18 THE COURT: Or you've waived your privilege.

19 MR. CAMMARATA: You can strike. I consent to striking
20 that. I actually move to strike it on my own, your Honor.
21 Thank you.

22 THE WITNESS: I apologize, your Honor.

23 Q. The portion of the screen that I have up, can you please
24 tell me what this document is.

25 A. Yeah. That's the verification to the first set of

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1 interrogatories.

2 Q. What's the date on that?

3 A. I'm sorry, but I don't see a date on what I have in front
4 of me.

5 Q. If I move up the screen.

6 A. Mine is not -- there it is. December 17, 2024.

7 Q. Is that your signature to the right of it?

8 A. Yes, sir.

9 Q. Thank you.

10 A. You're welcome.

11 Q. Bear with me. I'm pulling up another document.

12 Mayor Giuliani, do you see the document on the screen
13 that I have up right now?

14 A. If you can make it a little bigger, yes, I do.

15 Q. Can you tell me what this document is.

16 A. The document says defendant's third amended response to
17 plaintiffs' first set of interrogatories.

18 Q. Now, can you tell me under where it says third amended
19 responses to interrogatories, what interrogatory was answered?

20 MS. GOVERNSKI: We would object to the use of this
21 document as not in evidence yet.

22 MR. CAMMARATA: That's fine. This is separate. I'll
23 introduce it into evidence.

24 Your Honor I have this three-page document I would
25 like premarked as Defendant's Exhibit B for identification.

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Giuliani - Redirect

1 Let the record reflect it is up on the screen for the Court and
2 for Mayor Giuliani to see.

3 THE COURT: Do you have a copy for me?

4 MR. CAMMARATA: Yes, I do, your Honor.

5 THE COURT: You may approach.

6 Do plaintiffs have a copy of Defense Exhibit B?

7 MR. CAMMARATA: Let the record reflect I'm passing a
8 copy of the proposed Exhibit B and passing one to the bench.

9 THE COURT: What is the purpose for which you're
10 offering this?

11 MR. CAMMARATA: The purpose I am offering this is to
12 show that it was submitted to plaintiffs' counsel and in
13 compliance with the request and the Court order to respond to
14 said interrogatories.

15 THE COURT: In other words, you're not offering this
16 for the truth, but you are offering this as a document you
17 produced to the plaintiff. Is that correct?

18 MR. CAMMARATA: Yes, in compliance with your Honor's
19 order.

20 THE COURT: That's to be seen.

21 MR. CAMMARATA: Okay, I understand.

22 THE COURT: Is there any objection to it being
23 received not for the truth, but for the fact it was turned over
24 to the plaintiffs?

25 MS. GOVERNSKI: We object because it's outside of the

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Giuliani - Redirect

1 scope and irrelevant to the current proceeding before the
2 Court, because the record on the interrogatories is closed and
3 the current proceeding before the Court is relating to his
4 responses or his deficient responses to the RFPs.

5 THE COURT: That is true that I closed the record with
6 respect to the rogs. But I'll permit you to ask some questions
7 about it on the basis of it being a motion to reopen, and then
8 I'll consider after I hear the testimony whether I'm prepared
9 to reopen.

10 MR. CAMMARATA: So your Honor, I'm offering it to
11 show --

12 THE COURT: I understand the reason why you're
13 offering it. Go ahead.

14 Q. Mayor Giuliani, do you see where it says interrogatory
15 number 4?

16 A. Yes, sir, I do.

17 Q. Did you provide a response to interrogatory 4 within this
18 document?

19 A. Yes, it's right below, third amended response.

20 Q. If I scroll a little bit further down, do you see where it
21 says interrogatory 8?

22 A. No. If I move my document I can. I do, I see it now, yes.

23 Q. Did you provide a response to interrogatory 8?

24 A. Yes.

25 Q. If I scroll a little bit further down, can you tell me what

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Giuliani - Redirect

1 page this is.

2 A. That's the verification page.

3 Q. Did you sign this page?

4 A. I did.

5 Q. What's date on this page?

6 A. December 31, 2024.

7 Q. Mayor Giuliani, do you see I put what's been previously
8 admitted into evidence which is Defense Exhibit A back on the
9 screen. The declaration of Rudolph Giuliani. Do you see that?

10 A. I do, yes. Yes, sir, I have the first page of it.

11 Q. Can you please tell me what this document is.

12 A. Well, that's the document that was the --

13 Q. Do you want me to move it up a little bit?

14 A. No, no. It is what it says it is. That's the first
15 response to their -- to the plaintiffs' set of interrogatories.
16 I think it is the first response. That's what it says.

17 THE COURT: It is the document request and I can take
18 notice of that.

19 MR. CAMMARATA: Yes, thank you, your Honor.

20 Q. I'd like to direct your attention to Bates stamp
21 page 189 of --

22 A. I see it.

23 Q. -- of Exhibit A.

24 A. Yes, sir.

25 Q. Okay. Did you respond to this document request?

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1 A. I did to the best of my ability and my understanding of
2 whatever privileges I had.

3 THE COURT: Mr. Cammarata, if all you're doing is just
4 authenticating the document, then you've already authenticated
5 the documents as his responses.

6 MR. CAMMARATA: Okay. Within the whole --

7 THE COURT: In other words, I'm prepared to accept
8 that a document that says defendant's responses to the first
9 set of document requests were defendant's responses to the
10 first set of document requests.

11 MR. CAMMARATA: Appended to the declaration is
12 acceptable?

13 THE COURT: Yes.

14 MR. CAMMARATA: Thank you, your Honor. Okay.

15 Your Honor, I would like document number 165 in the
16 homestead case 6563 marked as Defense Exhibit B.

17 THE COURT: You already have Defense Exhibit B.

18 MR. CAMMARATA: I'm sorry, C. Defense Exhibit C.

19 THE COURT: Okay. 165? Is that what you said?

20 MR. CAMMARATA: Yes, your Honor.

21 THE COURT: Any objection?

22 MS. GOVERNSKI: Well, your Honor, this is a court
23 document. We would suggest it should be treated the same way
24 as the other court documents, which is taken for judicial
25 notice as filed on the docket.

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1 THE COURT: I'm prepared to do that, but I'm also
2 prepared to allow counsel to mark it as an exhibit, again, not
3 for the truth of the matter but for the fact that it is a
4 document that was filed on the docket and that it represents a
5 letter that Mr. Cammarata sent to the Court.

6 Go ahead, you can use it as Defense Exhibit C for the
7 proposition that this is a letter that you sent to the Court
8 with Exhibits 1 to 22 attached.

9 Q. Mr. Giuliani, I'd like to direct your attention to what's
10 been marked as Defendant's Exhibit C. You see this document?

11 A. Yes, sir.

12 Q. Do you recognize this document to be a letter that was
13 uploaded on ECF in connection with this case?

14 A. Well, I can't tell you where it was uploaded, but I see it
15 is a letter in the case, yes.

16 Q. I'd like to direct your attention to page 3, Bates stamped
17 003. Do you see that?

18 A. No, I don't. I see the last page up on the top. It is
19 page 3 of 3?

20 Q. Yes. That will work.

21 A. Okay, I have that page. I have page 3 of 3.

22 Q. Now, if you look at letter (a), can you please read letter
23 (a) into the record.

24 THE COURT: No. I can read it.

25 Q. So, Mayor Giuliani, letter (a) --

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Giuliani - Redirect

1 THE COURT: I'm sensitive to everybody's time
2 including your time, the witness's time, my time and
3 plaintiffs' counsel's time. You don't need to read documents
4 into the record.

5 Q. Mayor Giuliani, regarding letter (a) to letter (g), these
6 are appended exhibits to this letter. Did you provide this,
7 these responses to plaintiffs?

8 A. Yes, although they say they were mine, I worked with you in
9 answering them, yes.

10 Q. You recognize these documents to be ones provided to
11 plaintiffs you just testified to; is that correct?

12 MS. GOVERNSKI: Objection. Asked and answered.

13 THE COURT: Overruled.

14 A. Yes.

15 Q. These documents are in the same and similar condition as
16 when you transmitted them to plaintiffs as filed on ECF; is
17 that correct?

18 MS. GOVERNSKI: Objection. Leading, lacks foundation,
19 lack of personal knowledge.

20 THE COURT: Sustained. Also on 401 grounds.

21 Q. Mayor Giuliani, did you make any efforts to comply with
22 orders of this Court?

23 MS. GOVERNSKI: Objection. Leading. Vague.

24 THE COURT: Overruled.

25 A. Yes, many.

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Giuliani - Redirect

1 Q. And you made efforts to comply with discovery orders; is
2 that correct?

3 A. I tried each time to do it to the best of my ability, yes.

4 Q. Can you explain whether you willfully violated any court
5 orders.

6 MS. GOVERNSKI: Objection. Leading, calls for legal
7 conclusion.

8 THE COURT: Overruled. You can cross on it, but it's
9 also of limited weight. The witness's self-serving statement
10 is of limited weight. But it's relevant. Go ahead.

11 A. I never purposely tried to hide or leave out a document.
12 There were somewhere I engaged in long conversations about the
13 propriety of --

14 THE COURT: Hold on a second. Mr. Cammarata, your
15 client is about to again talk about conversations with you, I
16 gather. Because he didn't have conversations with me about his
17 discovery obligations, and ethically he could not have had
18 conversations with plaintiffs' counsel. So I assume when he
19 says he had lengthy conversations, he was talking about with
20 you. Which I'm perfectly prepared to hear about, but it comes
21 with consequences.

22 MR. CAMMARATA: I'll withdraw that question.

23 THE WITNESS: I could limit it.

24 Q. You could respond.

25 A. I had questions about some of them as to the propriety, the

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1 overbreadth. It seemed very similar to what was done in the
2 first part of this litigation with massive requests, very hard
3 to answer, where no matter what you do you would give an
4 incomplete answer.

5 That wasn't true of all the interrogatories. But
6 there were some that, in my experience, were traps. So those I
7 was wary about, and the rest I answered and attempted to get
8 more clarification on the others.

9 Q. Did anyone instruct you to disregard discovery court
10 orders?

11 MS. GOVERNSKI: Objection. Leading, hearsay.

12 THE COURT: Well, if that question is asked, then I'm
13 going to permit inquiry into the discussions between
14 Mr. Cammarata and Mr. Giuliani.

15 MR. CAMMARATA: I'll withdraw that question.

16 Q. Who assisted you in complying with discovery court orders?

17 A. Well, my lawyers, first -- mostly Mr. Caruso. I didn't
18 deal with his associate, rarely, and then again, with
19 Mr. Caruso, at first, fairly normally and then rarely. With
20 you, Mr. Rosen, and then I had assistance from some of my
21 co-workers, Dr. Maria Ryan and Ted Goodman. That would be the
22 main ones.

23 There might have been someone else or two that I
24 called to ask if they knew where a document was or from my past
25 life to help me try to find documents that I either found or

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1 have yet to find. I could go back and try to probably figure
2 out who they are.

3 There was no conversation other than do you remember
4 where a certain document was, because some of them go back to
5 when I left my first law office, my second law office,
6 Washington, and even when I left mayor. And different people
7 conducted those, those endeavors. So I talked to several of
8 them.

9 Q. Mayor Giuliani, how many cases are you a defendant in
10 currently?

11 A. I'm going to get it wrong. But I'll try to do my best.

12 I'm in two criminal cases, in Arizona and Georgia in a
13 RICO case. I'm in a longterm litigation with Dominion for a
14 couple of billion dollars in damages. There are two parts to
15 that case, so it's more like two cases. But I've been served
16 with lots of document requests and I've never been deposed and
17 it's been 4 years.

18 Smartmatic is a similar case, less, the damages are
19 less. The allegation's similar. And I have been deposed in
20 that case, and I have, I think we've completed, I think we're
21 at the summary judgment stage in that case. Dominion we've
22 gone nowhere with it. Meaning they've gone nowhere with it.

23 I'm in a case with an employee of Dominion named
24 Mr. Coomer, along with many, many other people whose names
25 would be familiar as the people who represented and worked with

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1 President Trump. President Trump may be in that case as well
2 as he is in the Georgia case. And that involves, it involves
3 more than this, but I think with regard to me, it only, it
4 involves statements that I made that he believes were untrue,
5 and it's a broader case than this, but as to me it is a case
6 with defamation.

7 I'm also involved in -- I was involved for a long
8 period of time while this was going on, a case brought by
9 Hunter Biden in I think it was the Middle District of
10 California.

11 THE COURT: How many cases was the witness a defendant
12 in. Is that right?

13 THE WITNESS: These are all the ones in which I was a
14 defendant, not just a co-conspirator, your Honor. These are
15 ones in which I had to produce documents or answer in some way.

16 THE COURT: The question is where you were a
17 defendant.

18 THE WITNESS: Okay. Same thing.

19 THE COURT: Let's try to limit the witness's answers
20 to the questions being asked and avoid the volunteering.

21 Q. Please quantify the amount of cases you're actively
22 involved in.

23 A. I'm trying to do that. The one in California had been
24 dismissed. But I was involved in it coterminous with the
25 discovery obligations in this case.

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1 I was involved in a case, I was a defendant along with
2 ex-President Trump and his son Donald J. Trump and Professor
3 Goodman and numerous other people in the District of Columbia
4 brought by the J6 Committee. That one, that one, after
5 discovery and a motion for summary judgment was dismissed as to
6 me. So that one is gone.

7 Q. Is it safe to say that there --

8 A. There is also a case in the New York Supreme Court brought
9 by a woman who claims she worked for me. She is suing me for
10 various kinds of abuse when she worked for me, and I'm required
11 to do discovery in that case. But this is the third time she's
12 brought such a case against people, and she's well known for
13 doing this, and we're at the stage now in making a motion to
14 dismiss.

15 So for summary judgment. I probably am missing during
16 the period of time, well, no, he just asked me which ones was I
17 a defendant in.

18 There also were several investigations that required a
19 great deal of discovery during this period of time of a
20 criminal or regulatory nature.

21 Q. Okay.

22 A. I think that completed it. I will just ask for leave to
23 amend it when I read it. I might remember another case or two.

24 Q. Are there any active cases that are on appeal?

25 A. Yes. Well, this case of course and the brief has been

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1 submitted but, so yes, it's on appeal. The Coomer case, the
2 one in Arizona is on appeal. Some portion of the Smartmatic
3 case is on appeal. Probably another one.

4 My present recollection would be that group of cases
5 are on appeal, others are at some portion of motion for summary
6 judgment, and some others haven't been started yet. Even
7 though they're 4 years old.

8 I'm sorry, there is also a case that I brought in the
9 State of New Hampshire against President Biden for defamation
10 when he referred to me in the last debate in the 2020 election
11 as having produced the hard drive as an agent of the Russian
12 government. Which I was absolutely not. That is awaiting him
13 stepping down as president, for there has been a complaint and
14 answer and discovery will start after the president leaves the
15 office.

16 (Continued on next page)
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Giuliani - Redirect

1 (Answer continued)

2 A. Also two bar association proceedings that were very active,
3 in some cases more active than the cases in the -- sorry, in
4 the 1st Dept. Appellate Division, New York Supreme Court, and
5 in the District of Columbia.

6 BY MR. CAMMARATA:

7 Q. Mayor Giuliani, describe how these proceedings have
8 impacted you, if at all.

9 MS. GOVERNSKI: Objection. Vague.

10 THE COURT: Sustained.

11 Q. Describe the day-to-day -- your day-to-day life in
12 responding to discovery demands in these cases.

13 MS. GOVERNSKI: Objection.

14 THE COURT: Sustained.

15 The useful way of asking the question is beginning
16 with a who, what, when, sometimes how, not describe, which
17 calls for a narrative.

18 Q. How has your day-to-day life been -- how is your day-to-day
19 life in responding to discovery in these cases?

20 A. It's varied, because as all of you lawyers know, things go
21 up and down, up and down. So some days -- some days it's
22 completely impossible, because there are conflicting demands
23 for material or even appearances on the same day. And then
24 there will be a period of time in which it's less -- I can't
25 say that every day is hell. I could say that 30 or 40 percent

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Giuliani - Redirect

1 make it impossible to function what you would like to call an
2 efficient way. And particularly as I ran out of money, to have
3 the kind of staff that Willkie Farr has.

4 MS. GOVERNSKI: We would move to strike that last
5 answer.

6 THE COURT: Motion is granted.

7 There's a reason why Willkie Farr has as many lawyers
8 they have in this case. The docket in this case demonstrates
9 it.

10 Q. Mayor Giuliani, I have up on the screen, which I would like
11 marked as Defense Exhibit D, I'd like to direct your attention
12 to the Bates stamp, Defendant's Exhibit, January 6, 2025, page
13 003. Do you see that?

14 A. I do see that, yes.

15 THE COURT: What are we using this document for? Is
16 this with respect to the turnover motion?

17 MR. CAMMARATA: It's just to further show compliance
18 with discovery.

19 THE COURT: Okay. Go ahead.

20 MR. CAMMARATA: And I believe this was also offered in
21 this case as well.

22 THE COURT: Go ahead.

23 MR. CAMMARATA: Okay.

24 Q. Mayor Giuliani, do you recognize this document?

25 A. Well, I recognize it because I saw it in court the other

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Giuliani - Redirect

1 day. I don't recognize it contemporaneous with the dates
2 there.

3 Q. Okay.

4 A. But I do recognize it either in court or in preparation for
5 court.

6 Q. I'm just going to scroll through this document.

7 What do you recognize this to be?

8 A. Well, after the fact, I can do with it what you can do with
9 it, which is I can read it. And it looks like -- I don't know
10 if you'd call it an invoice, a packing order, a bill. It looks
11 like charges for the work that they did in collecting my
12 property and putting it in the warehouse, or possibly putting
13 it in one warehouse because there was too much of it, and then
14 moving it to a second. That's the best I can make of it, on a
15 number of different dates or several different dates.

16 Q. I'd like to direct your attention to page 007. Do you see
17 007 on your screen?

18 A. Not yet. Now I do.

19 Q. What is the title of this document?

20 A. Well, that's Mickey Mantle's number.

21 Q. No, the title of the document at the top.

22 A. I'm sorry. I was just -- the title of the document is
23 "Inventory Summary."

24 Q. And this was presented to the plaintiffs --

25 MS. GOVERNSKI: Objection, your Honor.

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Giuliani - Redirect

1 THE COURT: Overruled.

2 Is there any dispute that this was part of the
3 discovery?

4 MS. GOVERNSKI: No, your Honor.

5 Q. You can answer the question.

6 A. As far as I know, I mean, obviously I either signed it or
7 signed off on it; and then somebody else did the filing of it,
8 which I assumed happened.

9 Of the document, I have to tell you, I hope I made it
10 clear last time when I saw it, I don't remember the pictures
11 here at the end. Number one, I don't remember them. And
12 number two, they seem kind of indistinct to me.

13 Q. Okay. I'm going to pull up another document.

14 A. I'd just add to it, I can probably identify them, but I
15 have to do some work looking at them very carefully only
16 because I know them.

17 Q. We're not going to do that in this proceeding.

18 A. Okay. I just want you to know that.

19 THE COURT: Mr. Cammarata, I can take judicial notice
20 of -- and I think it will be stipulated, I'm sure plaintiffs
21 will stipulate as to the documents that were turned over in
22 discovery and when they were turned over.

23 MR. CAMMARATA: Okay.

24 THE COURT: Am I wrong about that, that the plaintiffs
25 will stipulate as to the documents that were turned over in

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Giuliani - Redirect

1 discovery and when they were turned over?

2 MS. GOVERNSKI: We would stipulate to when they were
3 turned over. But to that particular document, it's a little
4 bit thornier than that, your Honor.

5 THE COURT: Okay. All right. I was wrong.

6 Mr. Cammarata, maybe you can work on moving it along.
7 Long pauses --

8 MR. CAMMARATA: I will. It's just a little cumbersome
9 with the computer screen.

10 Your Honor, I'm holding a document that I am sharing
11 on the screen. If the Court needs a hard copy of it --

12 MS. GOVERNSKI: I don't have a copy of it.

13 MR. CAMMARATA: I'll move on from this document right
14 now.

15 BY MR. CAMMARATA:

16 Q. Mayor Giuliani, what is your explanation for not complying
17 with any court orders requiring you to respond to discovery?

18 A. In some cases I couldn't find the documents. In some
19 cases -- well, going back earlier, I wasn't aware of some of
20 them. More lately, since you've been involved, the only ones I
21 didn't respond to were ones that I can't find or I wanted
22 clarification of, because I thought that a -- well, I think
23 I've explained that when I testified, I thought they were
24 either too broad and would require me to give an answer that
25 necessarily had to be false -- and as you know, I don't trust

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Giuliani - Redirect

1 the plaintiffs not to use that as some form of perjury or -- or
2 possible discovery for other cases, like when they ask me for
3 all the lawyers that I talked to in the last five years. Many
4 of those were highly sensitive conversations having absolutely
5 nothing to do with this case. So I had real concerns about
6 that. Doctors less so, but also wondered why.

7 Those are the ones that -- two types: Ones where I
8 can't find it; and the second where there was a -- at least
9 from my point of view, a principal objection that I stated.
10 But the vast majority of things I turned over, and I think
11 we've turned all that -- I think now we've turned all that
12 over. But a few more items, some of which I have found, some
13 of which I haven't found. But maybe with one exception, I'm
14 pretty confident I can figure out where they are by using my
15 prior expertise as a detective. I'm pretty certain we can
16 supply them with almost everything they asked for. I can't
17 promise everything, but very, very close to it. And some of
18 it --

19 THE COURT: Mr. Giuliani, there's not a question
20 pending.

21 THE WITNESS: I'm sorry.

22 Q. What steps have you taken to diligently comply with
23 discovery in a reasonable manner?

24 MS. GOVERNSKI: Objection. Leading. Vague.

25 THE COURT: No. Overruled.

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Giuliani - Redirect

1 A. Well, it begins with trying to get to understand the nature
2 of the discovery. Some of it's very easy, some of it I would
3 give directly to Ryan Medrano, because he would have
4 possession, particularly economic documents, particularly with
5 regard to Giuliani, my prior businesses.

6 In the case of my current business, Dr. Ryan and Ryan
7 Medrano have almost overlapping information. Probably Ryan has
8 more about the economics of it, and Dr. Ryan does about the
9 contracts and production, although Ted Goodman also.

10 So if the things related to things that they know
11 about and I don't, I would give it to them. And then some of
12 them go back to my prior life. So I would ask them to call --
13 to call someone who has knowledge of my papers or -- I mean,
14 that's basically what I would do. Or I would go through my own
15 papers, like when I was in New York, in New York; and when I
16 was here, here.

17 Oh, and also -- yeah, that's it. I think that's --
18 may have missed something, but that's basically what I would
19 do. I would ask people to help me, I would help myself, and
20 then we'd isolate the things that we couldn't find or the
21 things where we thought there was a privilege or abuse in the
22 asking of a question.

23 Q. So your testimony indicated that you relied on others to
24 help you in this action; is that correct?

25 A. Of course. I followed the procedure here that I followed

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Giuliani - Redirect

1 in every one of the other cases. And when I say "in this
2 case," I mean the original case in the District of Columbia and
3 this case. And this is the only case in which there have been
4 motions for contempt with regard to discovery. In all the
5 others, which are very heavily litigated and required a lot of
6 discovery, I didn't have that problem.

7 THE COURT: Is there a motion to strike that last
8 testimony?

9 MS. GOVERNSKI: Yes, I would move to strike.

10 THE COURT: All right. That's granted.

11 Let me instruct you, Mr. Cammarata, to instruct your
12 client to just answer the question being asked.

13 Q. Mayor Giuliani, if you could just stick to answering as
14 succinct as possible, the Court would appreciate it for a clean
15 transcript and making its determination.

16 A. I'm sorry.

17 Q. What other times in your life have you utilized the
18 assistance of others to help in day-to-day document retrieval
19 requests?

20 MS. GOVERNSKI: Objection.

21 Leading. Calls for a narrative answer.

22 THE COURT: Overruled.

23 A. Oh, my goodness. Probably from the time I became the chief
24 of staff to the deputy Attorney General, increasingly the scope
25 of what you do becomes greater and greater. You get more

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Giuliani - Redirect

1 assistance and you tend to rely on them to do almost anything
2 but the final decision-making. So that progressed. Certainly
3 not when I was an assistant U.S. Attorney or law clerk; had to
4 do the work yourself.

5 But when I became -- when I became the chief of staff
6 to Judge Tyler in the Justice Department, there were thousands
7 of people reporting to us. And I had to direct his people, so
8 I relied on them.

9 And then when I became -- when I became the U.S.
10 Attorney, the same thing was true in the Southern District.

11 Then when I became mayor, it got to a degree almost
12 impossible to describe.

13 And then when I was in business, I ran -- my law firm
14 I started five years after I left practice. I originally
15 started a security business that was worldwide and the second
16 most highly rated security business in the world. And I had a
17 large staff and I relied on them for everything. I mean,
18 that's been true throughout this situation.

19 So if I got a request for something, I'd give them as
20 much information as I had about it and I would say, Handle it.

21 It becomes a habit.

22 Q. Regarding your representation -- the representation of your
23 prior attorney, Kenneth Caruso, what was the time frame he told
24 you that discovery responses were due?

25 A. I don't remember.

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Giuliani - Redirect

1 Can I make a general comment to put that in proper
2 context --

3 THE COURT: No.

4 A. About Mr. Caruso?

5 THE COURT: No.

6 A. No? All right.

7 THE COURT: You can just answer the questions that are
8 being asked.

9 THE WITNESS: Yes, your Honor.

10 MR. CAMMARATA: I withdraw that question.

11 THE COURT: No, you've asked it and it was answered.

12 MR. CAMMARATA: I'm sorry.

13 THE COURT: Next question.

14 MR. CAMMARATA: I apologize.

15 THE COURT: Mr. Cammarata, are we coming close to
16 conclusion?

17 MR. CAMMARATA: Yes.

18 BY MR. CAMMARATA:

19 Q. Was there ever a time -- withdrawn.

20 Can you explain whether you were acting in good faith
21 in responding to plaintiffs' discovery demands and
22 interrogatories?

23 A. Yes, absolutely. I did the best I could given the
24 reservations that I said that I had, which I expressed and
25 tried to work out.

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Giuliani - Redirect

1 Q. Were there any circumstances that prevented you from
2 complying with court orders?

3 A. That's a very hard question to answer. There were times in
4 which there were competing demands where you could -- and it
5 was -- yes, there were times in which there were. But I'm
6 not -- I can't even be certain, because there were so many
7 cases and so much confusion that it involved this case or
8 another case. But there were times where two things were due
9 at the same time or a lawyer -- a lawyer -- a lawyer quit and
10 we had to -- I don't think I've described that either, the
11 chaos of lawyers getting threatened and quitting.

12 So, yes, there were times in which maybe it was
13 theoretically, but practically impossible to comply with the
14 demands, particularly in this case, which were more overbroad
15 and more abusive than in the others.

16 MS. GOVERNSKI: Move to strike the reference to
17 abusive.

18 THE COURT: No. I mean, I -- it goes to his state of
19 mind, so I'm going to permit it.

20 Q. Was there ever a period of time where the discovery
21 schedule became overwhelming to you?

22 A. Sure. Well, discovery schedule, deposition schedule,
23 testimony schedule, numerous times. I shouldn't say numerous
24 times. Four or five times.

25 Q. How many depositions have taken place in the homestead

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Giuliani - Redirect

1 proceeding?

2 A. I don't know how to distinguish the homestead proceeding.
3 Could you help me with that?

4 Q. Sure.

5 A. Are we talking about in this case in general or just on the
6 issue of homestead?

7 Q. Okay. I'll rephrase that.

8 Do you know how many depositions have taken place in
9 this matter in the last 30 days?

10 MS. GOVERNSKI: Objection. Relevance.

11 THE COURT: Sustained.

12 A. Of me?

13 THE COURT: The objection is sustained.

14 MR. CAMMARATA: That's fine.

15 THE COURT: Do you think you can bring it to a close
16 in ten minutes?

17 MR. CAMMARATA: Yes, yes, yes, I can.

18 I have a document I'm bringing up right now.

19 Do you need to use the rest room?

20 THE COURT: Why don't we -- why don't you finish your
21 examination, then we'll take a break.

22 MR. CAMMARATA: Okay. I have one or two more
23 questions.

24 BY MR. CAMMARATA:

25 Q. What, if any, documents did you find over the weekend?

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Giuliani - Redirect

1 A. I found -- I found a title to the -- a title to the
2 Mercedes hidden away here -- or I might say Dr. Ryan found it --
3 which I executed and gave to Gary Rosen to give to you. I
4 didn't have to find, but I got my watch. Here it is so you
5 know I have it in my possession.

6 Q. That's not necessary.

7 A. Okay. But I mean -- and I was going to suggest that I give
8 it to you and you figure out how it gets delivered. I don't
9 want to mail it.

10 I also found a -- Dr. Ryan found also a lease, but I
11 think it was for this apartment, not for New York.

12 And I have --

13 Q. So is it your testimony today that you are continually and
14 diligently looking for any documents that may have either --
15 that you may not have put forward out of being misplaced or
16 missing?

17 MS. GOVERNSKI: Objection.

18 A. I am --

19 THE COURT: Overruled.

20 A. I'm sorry.

21 Q. You could answer it.

22 A. Okay. I put my hands on several of the documents we talked
23 about on Friday. I'm confident I'm going to be able to get two
24 others shortly this week. Confident, 90 percent. The only one
25 I'm having difficulty with is the Joe DiMaggio jersey, because

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Giuliani - Redirect

1 I do not -- I do not know where it is and I don't know -- it's
2 hard to recreate who took it. But I -- I am personally
3 conducting my own investigation of that.

4 MS. GOVERNSKI: Your Honor, I would ask --

5 A. And I'm personally conducting my own investigation of that
6 is what I said.

7 MS. GOVERNSKI: Your Honor, I would ask for this --

8 THE COURT: Yes, counsel.

9 MS. GOVERNSKI: I would ask for this Court's guidance.
10 If we're doing redirect on the turnover, then we should do the
11 full redirect on the turnover. But it's unclear to us the
12 scope of what we're dealing with today, if he's talking about
13 turnover and not just discovery, which we understood --

14 THE COURT: Well, let me ask -- let me ask
15 Mr. Cammarata a question: First of all, are you done with what
16 you intended to do?

17 MR. CAMMARATA: Yes, I'm done with what I intended.
18 It was just to further show compliance with discovery orders.

19 THE COURT: Okay.

20 MR. CAMMARATA: Subject to --

21 THE COURT: Then the objection is overruled. You can
22 cross-examine on that bit of testimony and any other testimony
23 with respect to the turnover when we continue that portion of
24 the hearing.

25 All right. So, Mr. Cammarata, you're done with the

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Giuliani - Recross

1 examination --

2 MR. CAMMARATA: Yes, I am done.

3 THE COURT: -- of Mr. Giuliani?

4 All right. It's now 11:30. Is a ten-minute break
5 sufficient for the witness?

6 THE WITNESS: It is for me, your Honor, yes.

7 THE COURT: All right. So we'll take a ten-minute
8 break until 11:40. And then we'll -- I'll hear any further
9 examination from the plaintiffs. And then either we'll -- then
10 we'll have argument, depending on how long that goes, the
11 examination of Mr. Giuliani goes, we may take another break.

12 Okay. See you in a bit.

13 (Recess)

14 THE COURT: Okay. Counsel, you may inquire.

15 MS. GOVERNSKI: I'm not sure the witness is back. I
16 don't see him on the screen.

17 THE COURT: Oh, you're right.

18 THE WITNESS: I'm back. Here we are.

19 THE COURT: All right. Good.

20 RECROSS EXAMINATION

21 BY MS. GOVERNSKI:

22 Q. Good morning, Mr. Giuliani. You recall during your
23 lawyer's questioning you testified that you -- there was a
24 period of time when you weren't communicating with your former
25 counsel, Mr. Caruso; is that right?

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Giuliani - Recross

1 A. Well, I was communicating with him, and he wasn't
2 communicating with me, that's the way I would put it.

3 Q. When exactly did that lack of communication begin?

4 A. Probably in the last -- I have to estimate it. Last two --
5 minimum of the last two weeks, maximum the last four weeks of
6 our relationship.

7 Q. Can you pinpoint any closer an exact date when he stopped
8 communicating with you?

9 A. I can't, because I don't know the reason for it.

10 Q. You can't recall?

11 MR. CAMMARATA: Objection.

12 A. Well, it just stopped.

13 THE COURT: Sustained.

14 A. I can't tell you -- it was like he said to me we're not
15 going to talk or I said to him we're not going to talk.

16 THE COURT: Sustained.

17 A. It just stopped. So I can't tell you when that happened.

18 THE COURT: Mr. Giuliani --

19 (Indiscernible crosstalk)

20 A. -- two-to-four-week period.

21 THE COURT: -- what's your best approximation of the
22 calendar date -- month/day -- when you made a communication that
23 was not responded to, either directly to you or to one of your
24 assistants? Month and day.

25 THE WITNESS: Hang on.

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Giuliani - Recross

1 My best recollection is it would have been in -- would
2 have been in late October.

3 THE COURT: Go ahead, counsel.

4 BY MS. GOVERNSKI:

5 Q. Mr. Giuliani, I wanted to talk about your -- you recall
6 that your counsel showed you your responses to various
7 interrogatories, do you recall that?

8 A. Yes, I do.

9 MS. GOVERNSKI: I want to pull up on the screen,
10 please, docket number 127 in the docket 6563.

11 THE WITNESS: Uh-huh.

12 THE COURT: Hold on for a second.

13 MS. GOVERNSKI: Yup.

14 THE COURT: Let me pull that up.

15 You're posting on the screen, that's fine. If you
16 want to hand it up, that's also fine. You may approach.

17 Q. Mr. Giuliani, do you see on your screen "Plaintiffs' First
18 Set of interrogatories to Defendant Rudolph Giuliani"?

19 A. Yes. Just help me make them bigger. I do, yes. I see the
20 first page.

21 Q. You understand that this is the interrogatories that
22 plaintiffs served on you in this matter?

23 A. Yes.

24 Q. If I can direct your attention to the bottom of this page,
25 you'll see a paragraph that states: The definitions and

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Giuliani - Recross

1 instructions that appear below form an integral part of
2 interrogatories that follow and must be read in conjunction
3 with them and followed when responding to the interrogatories.

4 Do you see that?

5 A. I do.

6 Q. Did you do this?

7 MR. CAMMARATA: Objection.

8 THE COURT: Overruled.

9 A. I'm sure I did. I don't remember doing it, but I'm sure I
10 did.

11 Q. Let's go to the next page.

12 A. I did so many of these, it's hard to distinguish this one
13 from 30 others maybe.

14 Q. You've mentioned that a few times. So it's your testimony
15 that it's difficult for you to keep track of the specific
16 requests in this case as opposed to all of the others in which
17 you are a defendant?

18 MR. CAMMARATA: Objection.

19 THE COURT: Overruled.

20 A. Some of it merges together. The fine details do, sure.

21 Q. Sure. So it's hard for you to remember -- I'm sorry, I
22 thought you were finished.

23 So it's hard for you to remember what exactly you've
24 done in this case as opposed to any of the others?

25 A. Sometimes. Sometimes it's clear, sometimes it's --

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Giuliani - Recross

1 sometimes it's cloudy or confused or I might -- I mean, it's
2 happened before in these depositions and other cases where I've
3 confused one case for another.

4 Q. If I can direct your attention to the next page, please, of
5 docket 127-1 as paragraph 5, where plaintiffs explain: In
6 answering these interrogatories, you must furnish all
7 information available. Do you see that?

8 A. I do.

9 Q. And this is part of the definitions and instructions that
10 we just discussed were integral to your responses to the
11 interrogatories?

12 A. Yes.

13 Q. And if we could look, please, at paragraph 8, which it
14 states: If you cannot answer an interrogatory in full after
15 exercising due diligence to secure the necessary information,
16 so state and answer the interrogatory to the extent possible,
17 specifying your inability to answer the remainder and stating
18 whatever information or knowledge you have concerning the
19 unanswered portions. Do you see that instruction?

20 A. I do.

21 Q. And that was part of the definitions and instructions that
22 were integral to your responses to plaintiffs' interrogatories?

23 A. Yes, they were.

24 Q. Okay. Now let's please turn to what your client -- what
25 your counsel marked as Exhibit B, please.

P16VFRE2

Giuliani - Recross

1 MS. GOVERNSKI: If we can put that up on the screen.

2 Q. And you recognize this document, Mr. Giuliani, as your
3 third amended response to plaintiffs' first set of
4 interrogatories?

5 A. Yes, that's what it says, ma'am.

6 Q. Okay. Let's go to the second page, please, the date.
7 You'll see the date here is December 31st, 2024; is that
8 correct?

9 A. Yes, ma'am.

10 Q. And that was after your deposition, right?

11 A. Yeah. Deposition on the 27th; correct?

12 Q. It's your recollection that the deposition occurred before
13 December 31st?

14 A. Yes. I was just asking for clarification, but yes.

15 Q. Okay. And if we can look up to your third amended
16 response.

17 MS. GOVERNSKI: We can take that off the screen
18 because it does give an email address.

19 Q. Mr. Giuliani, you see that the --

20 MS. GOVERNSKI: Joanne, if we can take it down.
21 Thanks.

22 Q. Mr. Giuliani, you see that this response lists a single
23 Proton Mail email address?

24 A. Yes, that's the one that I use.

25 Q. You use that regularly, right?

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Giuliani - Recross

1 A. Yeah, that's the one I use.

2 Q. But you also have a gmail account, don't you?

3 MR. CAMMARATA: Objection.

4 THE COURT: Overruled.

5 A. Honestly, I'm not sure. I had one and it hasn't worked
6 since I got it back from the FBI until about four or five days
7 ago. But I'm not sure -- I've been trying to get it to work
8 because of some of the old apps, but I'd have to check if it's
9 working now.

10 Q. So it's your testimony --

11 A. It hasn't been working for several years.

12 Q. For several years. Your testimony is that your gmail
13 account has not been working for several years?

14 A. Well, rhelen0528@gmail.com, that's the one I'm talking
15 about. I also have other gmail accounts that were set up for
16 specific things that I'm not really aware of, they're just
17 there. Somebody set them up.

18 Q. And if you wanted to access those, you could, right?

19 MR. CAMMARATA: Objection.

20 THE COURT: Overruled.

21 A. If I wanted to what?

22 Q. If you wanted to access those other email accounts, you
23 could, right?

24 A. I'd probably have to ask somebody. No, I couldn't. I
25 wouldn't know how to do it sitting here. I would have to ask

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Giuliani - Recross

1 somebody to do that.

2 Q. You could ask someone to do that, if you wanted to, right?

3 A. I could. I could have. I'm not sure I could do it now,
4 but I could have.

5 Q. And in terms of this Proton email address, what steps have
6 you taken to ensure that emails sent to and from that Proton
7 Mail account are preserved?

8 A. I don't -- I don't remove any of those -- I don't remove
9 any -- my original practice had been to remove emails way back,
10 just to have space. I don't remove those that are connected
11 with any of the cases, which means the subject -- the subject
12 matter involving Trump and those things related to the *Trump*
13 case, *Trump* cases.

14 Q. Why do you use Proton Mail as opposed to another form of
15 email?

16 MR. CAMMARATA: Objection, your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: I'm supposed to answer that, your Honor?

19 THE COURT: Yes.

20 THE WITNESS: I didn't hear.

21 THE COURT: Yes, you're supposed to answer that.

22 A. It was at -- it was recommended to me after the FBI seized
23 my account. And I found out that for three years they had been
24 monitoring my iCloud account without my knowledge, from the day
25 that I began representing Donald J. Trump. And I thought it

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Giuliani - Recross

1 was safer if I use something different than gmail. And one of
2 my security -- former security employees recommended them as
3 being highly secure.

4 Q. What is your understanding of Proton's preservation policy?

5 MR. CAMMARATA: Objection.

6 THE COURT: Overruled.

7 A. I don't know the exact details of their preservation
8 policies.

9 Q. Do you know whether they automatically preserve emails?

10 A. They do for some time, because I've been able to go back
11 and get some. I think -- what I can't tell you is exactly how
12 long.

13 Q. Did you turn off any preservation -- did you turn on any
14 preservation settings to ensure that your documents were
15 preserved?

16 MR. CAMMARATA: Objection, your Honor.

17 THE COURT: Overruled.

18 A. I'd have to go look.

19 Q. You're not sure?

20 A. I'm not sure. I'm sure I didn't turn any that wouldn't. I
21 don't have a recollection as to whether I -- it was set up for
22 me and I did answer a few questions, I remember, quickly. I
23 don't remember that.

24 Q. So you didn't -- you can't recall as you sit here today any
25 steps that you took to ensure that your emails at this email

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Giuliani - Recross

1 address were preserved, right?

2 A. I can't recall exactly what I did with this. It was done
3 very quickly right after the FBI had raided my apartment. I
4 just needed another account.

5 Q. You set that up very quickly, that was back in 20 -- what
6 date was that?

7 A. Whatever -- it was within about two or three days of the
8 FBI taking all of my electronics, except for the Hunter Biden
9 hard drives.

10 THE COURT: When was that, Mr. Giuliani, that your --
11 it was seized, your emails were seized?

12 THE WITNESS: It was in 20 -- oh, the emails.

13 THE COURT: The devices. When was it that your
14 devices were seized by the FBI?

15 THE WITNESS: That would be in April of 2022.

16 Q. And that's when you set up your Proton Mail, in 2022?

17 A. Probably within -- I started doing it within two days,
18 however long it takes to do it. So, yeah, approximately then.
19 I would only have set it up after that happened.

20 Q. And you've just testified that since 2022, you can't recall
21 altering any of the preservation settings in your Proton Mail
22 account, is that right?

23 A. No, I don't think I know how to do it. Somebody would have
24 to do it for me.

25 (Continued on next page)

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Giuliani - Recross

1 MS. GOVERNSKI: If we can please -- I want to go back
2 to this amended response. Joanna, can you try to put it up and
3 cover up the -- okay. If you can please put it back on the
4 screen, Exhibit B?

5 THE COURT: I wouldn't have a problem if you want to
6 take a magic marker and just mark out everything that goes
7 before ProtonMail.

8 MS. GOVERNSKI: I don't know if he sees the ELMO.

9 THE DEPUTY CLERK: He doesn't.

10 BY MS. GOVERNSKI:

11 Q. Let's see if I can do this without showing you.

12 Mr. Giuliani, do you recall that your December 31 response to
13 what messaging accounts you used, you said none?

14 A. I do recall that, and I -- I'm sure I thought they were
15 something different than the ProtonMail account. Since I
16 disclosed it so often, there would be no point in leaving it
17 out of that answer.

18 Q. But you use social media, right?

19 A. I mean, I use -- ProtonMail is basically --

20 Q. Mr. Giuliani?

21 THE COURT: Is there a reason why he's frozen?
22 Mr. Giuliani, do we have you back?

23 THE WITNESS: Can you hear me?

24 MS. GOVERNSKI: Now we can hear you.

25 THE COURT: Let's start with the question again.

P16RFRE3

Giuliani - Recross

1 BY MS. GOVERNSKI:

2 Q. Mr. Giuliani, my question was whether you use social media.
3 You're frozen again.

4 THE COURT: Let's bring back the audio.

5 MR. CAMMARATA: Your Honor, I'm noticing on the Teams
6 he's moving, and I think -- but not on the internal court
7 monitors, if that helps.

8 THE COURT: I see that also. Let's see if we can
9 handle that.

10 Mr. Giuliani, can you hear us?

11 THE WITNESS: I can hear you.

12 THE COURT: We couldn't hear the last answer. We'll
13 try the question and the answer question.

14 Go ahead, counsel.

15 BY MS. GOVERNSKI:

16 Q. My question, Mr. Giuliani, was whether you use social
17 media.

18 A. I was going to ask you to define social media so I know
19 what you're talking about. It's very broad. I think it means
20 a lot of things to different people, a lot of different things.

21 Q. You have an account on X, right?

22 A. I do.

23 Q. And you can receive instant messages there?

24 A. I can and I message from it, but I most often use it for my
25 broadcast at night.

P16RFRE3

Giuliani - Recross

1 Q. And you have Instagram, right?

2 A. Yes.

3 Q. You can message from there?

4 A. Yeah. I do that less often, but I do, yes.

5 Q. And what about WhatsApp? Do you have the WhatsApp
6 application?

7 A. Yeah, I haven't used that in a long time.

8 Q. What's "a long time"?

9 A. A couple years.

10 Q. Okay. Do you have Sigma?

11 MR. CAMMARATA: Objection.

12 THE COURT: Overruled.

13 A. I do have it but I use that even less rarely.

14 Q. What's "less rarely"?

15 A. Rarely, it has to be at least three years. And the times
16 that I've used it would be when somebody -- I would use it when
17 somebody else wanted to use it.

18 Q. Do you text message?

19 A. Text messages?

20 Q. Yes.

21 A. Yes, I do text messages on my iPhone.

22 Q. How often do you text message?

23 A. Oh, gosh, it's hard to say. It changes quite a bit. It
24 could be as little as two or three times a day or as much as 15
25 times a day.

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Giuliani - Recross

1 Q. And do you use iMessage?

2 A. I don't think I know what that is.

3 Q. Can you access text messages on your computer?

4 A. I don't use a computer until now. I just got a computer
5 for this new kind of broadcasting we're doing. But the only
6 way I'd use a computer is to do our live casting. I don't -- I
7 use an iPhone and an iPad.

8 Q. Understood. And so, can you access your text messages both
9 on your iPhone and on your iPad?

10 A. Not always. They're more consistent on my iPhone than on
11 my iPad.

12 Q. So you receive all of your text messages on your iPhone and
13 some portion of text messages on your iPad?

14 A. Yes. I mean, it's possible I receive some on the iPads
15 that I don't receive on the iPhone, but I don't think so. I
16 think the way you said it is the way it happens.

17 Q. Did you provide your iPhone to a discovery vendor in this
18 case?

19 MR. CAMMARATA: Objection, your Honor.

20 THE COURT: Overruled.

21 A. Well, I -- I did in an agreement with the FBI, yes.

22 Q. When was your agreement with the FBI?

23 A. Well, obviously after they raided my apartment and law
24 office.

25 Q. In 2022?

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Giuliani - Recross

1 A. In 2022. And the court appointed former Judge Barbara
2 Jones as a master to determine privilege, which was sort of
3 complicated because you had different privileges, right. My
4 law office involved about 12 different clients other than
5 President Trump, and I kept some of my legal work at home. So
6 there was the attorney-client privilege, the work product
7 privilege, and then, of course, there was the attorney-client
8 privilege with President Trump. And then the other privileges
9 that pertain --

10 Q. I'm sorry to interrupt.

11 A. -- to the president. So we had to have --

12 THE COURT: Mr. Giuliani, the question simply had to
13 do with the date of your agreement with the FBI.

14 THE WITNESS: Oh, I don't -- it's a matter of record,
15 your Honor. I'm going to give you my best estimate that it was
16 a month to two months after the seizure. So that would have
17 put it in May or June of 2022.

18 Q. So other than the FBI, you have not provided your iPhone to
19 any discovery vendor?

20 THE COURT: Is that correct?

21 A. I'm not sure.

22 Q. What about your iPad?

23 A. Well, they have my iPad, too, so whatever they did with my
24 iPhone, they did with my iPad. And remember, the FBI had my
25 iCloud account.

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Giuliani - Recross

1 Q. My question is: Other than the FBI, in this case, did you
2 provide your iPad to a discovery vendor?

3 A. I don't recall. I may have.

4 Q. Mr. Giuliani, would you recall if you didn't have access to
5 your iPhone for an extended period of time?

6 MR. CAMMARATA: Objection, your Honor.

7 THE COURT: Overruled.

8 A. Well, I didn't.

9 Q. I'm not talking about 2022.

10 A. I went -- I got -- I went and purchased another iPhone and
11 then didn't use that for two years.

12 Q. In 2024, was there a period of time that you were without
13 your iPhone for an extended period of time?

14 A. I don't think so, but I seem to recall that I -- I cannot
15 reject the responsibility that I -- in my head, in my mind, my
16 recollection, that at some point, I gave my iPhone so that it
17 could be checked or looked at, and it would not have been gone
18 for that period of time but for a shorter period of time. The
19 FBI hit for over a year.

20 THE COURT: We're not talking about the FBI. We're
21 actually talking about the time period from, what is it? Is it
22 September to November? Why don't you give a time frame?

23 MS. GOVERNSKI: One moment.

24 BY MS. GOVERNSKI:

25 Q. Between August 30, 2024, and today.

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Giuliani - Recross

1 THE COURT: Can you ask a question?

2 Q. Yes. Mr. Giuliani, did you provide your iPhone to a vendor
3 between the dates of August 30, 2024, and through today?

4 A. I don't believe so.

5 Q. Did you provide your iPad to a vendor between August 30,
6 2024, and today?

7 A. August, August 20 -- no, I don't believe so.

8 Q. Did you provide anyone with access to your Proton email
9 account between August 2024 and today?

10 A. Yes.

11 Q. Who?

12 A. People that work with me.

13 Q. Anyone other than people who -- well, who? Who works with
14 you? What specific people did you provide your Proton email
15 passwords to?

16 A. Ted Olsen. Oh, my gosh, I'm sorry.

17 Q. Ted Goodman?

18 A. Ted Goodman. Dr. Ryan, a few -- my son, my son's wife.

19 Q. Did you provide any discovery vendor with access to your
20 ProtonMail?

21 MR. CAMMARATA: Objection, your Honor.

22 THE COURT: Let's put a timeframe on it.

23 A. During that period of time?

24 Q. Thank you. Yes, between August 2024 and present day.

25 A. Not that I recall.

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Giuliani - Recross

1 Q. Mr. Giuliani, do you have a Telegram account?

2 A. I'm not sure. I may have. I don't think I have it now,
3 and I'm not sure I ever used it.

4 Q. Do you have a Truth Social account?

5 A. Truth?

6 Q. Truth, do you have a Truth account?

7 A. Yes, I do.

8 Q. Can you receive messages via your Truth account?

9 A. Sure.

10 MS. GOVERNSKI: Okay. If we can please --

11 Q. So in your response to plaintiffs' interrogatories when
12 they asked for messaging accounts, it was not accurate to list
13 none; was it?

14 A. Oh, I'm sorry. I didn't think of that. That's all public.
15 I don't do messaging on Truth like, you know, me to a person.
16 I put out statements and then people make statements back to me
17 that are part of the media. So I thought of messaging as
18 private messaging, not the things that I do as part of media or
19 promoting my shows. That's primarily what I use Truth, X, and
20 I don't -- I don't do private messaging with those social
21 accounts.

22 Q. But you've testified you do private messaging via text
23 messaging, right?

24 A. No, no, I don't. I don't do private messaging. I do broad
25 messaging to everyone.

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Giuliani - Recross

1 Q. Via text, you do broad messaging?

2 A. If I'm going to communicate with someone privately, I would
3 do it with the -- with my phone or very rarely email. I don't
4 use email that much. But I would do it by text. So if I
5 wanted to ask a question of one of my associates, I would never
6 do it through public -- or anybody else. I don't do individual
7 messaging through social media.

8 Q. Let's go back to Exhibit B, the cover page. You'll see
9 that interrogatory four asks for you to identify any financial,
10 medical, or legal professional or firm who you have consulted
11 during the period of January 1, 2020, through the present.

12 We'll put it up on the screen. Can you please share
13 it? There we go.

14 You see that this is your answer that you served on
15 plaintiffs on December 31, right?

16 A. Yes, ma'am.

17 Q. And you see under medical professionals, you just list five
18 last names, right?

19 A. Yes, yes.

20 Q. And you don't provide full names here?

21 A. Well, I -- I guess that's right, yeah.

22 Q. But you have access to the full names, right?

23 A. Sure, sure. I think we just did it to do it quickly. We
24 were running out of time.

25 Q. And you didn't provide any identifying information about

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Giuliani - Recross

1 these individuals, right, other than their last names?

2 A. Well, I mean I -- I don't think it asks for it. But okay,
3 no, we didn't.

4 MS. GOVERNSKI: Okay. Let's go to docket 143, which
5 your counsel used today, and we're going to go to page 393. We
6 can put that up on the screen.

7 Q. You recall this document we talked about, 143. We're going
8 to go to page --

9 A. Could I just go back to the -- all I see --

10 THE COURT: Why don't you show him the --

11 MS. GOVERNSKI: Yeah, we'll go back --

12 THE WITNESS: I have a transfer document.

13 Q. We'll go back to the first page, Mr. Giuliani, to orient
14 you.

15 A. Okay. Good.

16 Q. You recognize this is your declaration that you spoke with
17 your lawyer about?

18 A. I do.

19 Q. Now let's go to page 393 of this document.

20 A. Okay.

21 Q. I believe your testimony is that you don't know very much,
22 if anything, about this document, right?

23 MR. CAMMARATA: Objection, your Honor. I think that
24 mischaracterized the testimony.

25 THE COURT: Sustained as to form.

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Giuliani - Recross

1 MR. CAMMARATA: Thank you.

2 BY MS. GOVERNSKI:

3 Q. Mr. Giuliani, do you recall that you were deposed in this
4 matter on December 27?

5 A. Yes. Yes. Oh, I had the date right, good.

6 Q. Do you recall that my partner Aaron Nathan asked you what
7 you knew about this document and that you responded not much?

8 MR. CAMMARATA: Objection, your Honor.

9 THE COURT: Overruled.

10 A. Correct. I think I said it was the first or second time I
11 saw it.

12 Q. Are you aware of how this document came into your
13 possession?

14 A. No. I think my lawyers first showed it to me.

15 Q. Are you aware of how your lawyers received this document?

16 MR. CAMMARATA: Objection, your Honor.

17 THE COURT: Sustained.

18 A. I would have to --

19 MR. CAMMARATA: Don't answer the question,
20 Mr. Giuliani.

21 THE COURT: Sustained. If you have knowledge other
22 than through communications with counsel, you can answer that
23 question. If the answer is that the only information I have
24 would be from counsel, then so state.

25 Let me ask it a different way, Mr. Giuliani. Aside

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Giuliani - Recross

1 from any information that you may have learned from counsel, do
2 you have any information as to how this document came into your
3 possession?

4 THE WITNESS: Well, I got information about it after
5 my counsel handed it to me.

6 BY MS. GOVERNSKI:

7 Q. Are you aware that plaintiffs received this document
8 originally from Corporate Transfer and Storage directly?

9 MR. CAMMARATA: Objection.

10 THE COURT: Overruled.

11 A. I am not.

12 Q. Are you aware that plaintiffs' counsel then provided your
13 counsel with a copy of this document directly?

14 MR. CAMMARATA: Objection.

15 THE COURT: Overruled.

16 A. I don't know that.

17 MS. GOVERNSKI: If you could please, Joanna, go
18 further down on this document where we see those red notations?

19 Q. Are you aware, Mr. Giuliani, that your counsel sent this
20 document back to plaintiffs' counsel with these red text
21 annotations added?

22 MR. CAMMARATA: Objection, your Honor.

23 THE COURT: Overruled.

24 A. As I said, I don't -- I recall seeing the other part of the
25 document. I don't recall seeing these, or at least when I saw

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Giuliani - Recross

1 them, they were clearer than they appear to be now.

2 Q. So earlier today when your counsel suggested that you
3 produced this email, do you understand that you produced an
4 email -- strike that question.

5 Mr. Giuliani, are you aware of who applied the red
6 annotations?

7 MR. CAMMARATA: Objection.

8 THE COURT: What's the basis of the objection?

9 MR. CAMMARATA: It could be attorney work product
10 privilege.

11 THE COURT: Mr. Giuliani, where respect to all of
12 these questions, consider them amended by the preface: Aside
13 from anything that you might have learned from counsel, are you
14 aware.

15 A. I'm actually not aware of how this was prepared. When I
16 testified that I produced it, I meant in the -- I thought she
17 meant in the technical sense of produced it as part of the
18 discovery. I've always made it clear that this document was
19 not known to me from the first moment I saw it.

20 Q. Do you understand that you produced this in response to a
21 court order relating to the turnover proceeding?

22 A. Yes, that's exactly what I did, but I didn't produce it in
23 any other way. I didn't create it or have anything to do with
24 it.

25 Q. Understood.

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Giuliani - Recross

1 A. The first time I saw it, it was given to me. I looked at
2 it. It actually made some sense to me, and we turned it over.
3 I don't recall -- just to my recollection, I don't recall all
4 these pictures attached to them.

5 Q. And you don't recall making any personal effort to attach
6 these descriptions to this document?

7 MR. CAMMARATA: Objection, your Honor.

8 THE COURT: Overruled.

9 A. I don't recall the document except in turning it over. It
10 could have been there and I went through it quickly, but I
11 don't -- somehow when I see these pictures, it doesn't -- it
12 doesn't trigger a recollection in my head.

13 MS. GOVERNSKI: Okay. I'm going to have my colleague
14 put up two emails on the screen. I'm going to hand them out.
15 They are two separate emails. I'll mark them as exhibits. I
16 believe we're at 13 and 14.

17 Your Honor, may I approach?

18 THE COURT: You may approach.

19 MS. GOVERNSKI: I'm not going to put the email on the
20 screen but then that means Mr. Giuliani can't see the email.
21 Your Honor, I'm not quite sure. I need to ask Mr. Giuliani
22 questions regarding the specific recipients of this, but I
23 can't show the recipients on the screen, which is how he's
24 accessing it.

25 THE COURT: What do you want me to do?

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Giuliani - Recross

1 MS. GOVERNSKI: Can we email Mr. Giuliani a copy of
2 these two documents via the chat?

3 Your Honor, for the record, Mr. Giuliani just
4 testified that his email is public.

5 THE WITNESS: I have no objection to using my email.

6 THE COURT: All right. Then let's proceed.

7 MS. GOVERNSKI: All right. Let's please start with
8 the March 6 email on the screen, Joanna.

9 THE WITNESS: You are going to send me an email of
10 that?

11 MS. GOVERNSKI: We're going to put it up on the screen
12 because all the other emails are public.

13 BY MS. GOVERNSKI:

14 Q. Do you see this email, Mr. Giuliani, dated March 6, 2024,
15 from Maria Ryan, Heath Berger, and others?

16 A. Yes. It's from Maria Ryan. It goes back to March '24.
17 Those would be my bankruptcy counsel. I see it, yes.

18 Q. Do you recognize this document?

19 A. I -- no. I'd have to read it to see if it refreshes my
20 recollection.

21 Q. Do you have any reason to doubt that you received a copy of
22 this email to your ProtonMail account?

23 A. I don't know how to answer that. I don't remember it, but
24 it does say it went to the account. Right now, I don't
25 remember it.

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Giuliani - Recross

1 MR. CAMMARATA: Objection. Your Honor, I'm going to
2 object to this line of questioning.

3 THE WITNESS: I can't argue with the fact that it says
4 it on there. But if you are asking me to independently say do
5 I remember it, no. If you give me a chance to read it, maybe I
6 would. Do you want me to read it?

7 MR. CAMMARATA: I'm going to object to these emails --

8 THE COURT: Hold on for a second, Mr. Giuliani.

9 MR. CAMMARATA: -- for several reasons. These emails
10 are way outside the scope of -- it wasn't raised on cross and
11 redirect, and these are outside the scope. I'm going to ask
12 that these not be permitted to be questioned on. This line of
13 questioning is absolutely outside the scope.

14 THE COURT: Overruled. It's within the scope. The
15 client gave very broad testimony. Go ahead.

16 MS. GOVERNSKI: I move to admit as Exhibit 12 this
17 March 6 email.

18 THE COURT: No. You marked it as Exhibit 13, I think.

19 MS. GOVERNSKI: Thank you. 13.

20 THE COURT: It's received.

21 (Plaintiffs' Exhibit 13 received in evidence)

22 BY MS. GOVERNSKI:

23 Q. Mr. Giuliani, you did not produce this email, right?

24 MR. CAMMARATA: Objection.

25 THE COURT: Overruled.

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Giuliani - Recross

1 A. I don't -- well, I don't remember producing it, but I mean,
2 it may have gone in some kind of discovery that I gave. But
3 I'm not the one who found it and gave it to them if that's what
4 you mean.

5 Q. Okay. Well, over the course of the last two days of
6 testimony, we've looked at the sum of what you've produced, and
7 there were no communications, no emails, in the sum of those
8 materials, right?

9 MR. CAMMARATA: Objection.

10 THE COURT: Overruled.

11 A. I'm not sure I know what you're talking about.

12 Q. Okay. Let's look at the last sign of this email where
13 Ms. Ryan states, When the team had to travel to Florida
14 recently for business, we did have the business pay for it. Do
15 you see that?

16 A. I do see that, yes.

17 Q. So this document included information relevant to your
18 travels in 2024, right?

19 A. Well, it says -- I haven't read it. You're asking me to
20 assume something, but you haven't given me a chance to read it.
21 So I don't know what the document says.

22 Q. Well, I read you the sentence: When the team had to travel
23 to Florida recently for business, he did have the business pay
24 for it, right?

25 A. We do do that. The team doesn't always necessarily mean me

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Giuliani - Recross

1 if that's what you're getting at. I don't want to give you a
2 false impression.

3 Q. Okay. Let's go to the document.

4 A. It could mean three other people. Not always.

5 Q. Not always, but it could?

6 A. It could and it often does but not always. So without
7 reading this, I can't tell you.

8 Q. Okay. Let's go to a document which I'll mark as exhibit
9 14. You'll see it's another email from Mr. Berger to Ms. Ryan,
10 and then you're cc'd on this email. Do you see that?

11 A. If you don't mind, I have to make it a little bigger so I
12 can see it?

13 I do see that, yes.

14 Q. Do you have any reason to dispute that this email went to
15 you at Truth -- at your Proton email account?

16 A. No. If it says it there, I -- I can't tell you that it
17 did, but I have no reason to dispute that it did, given what it
18 says there.

19 MS. GOVERNSKI: I would enter this email dated --

20 THE COURT: Exhibit 14 is received.

21 (Plaintiffs' Exhibit 14 received in evidence)

22 BY MS. GOVERNSKI:

23 Q. If you could direct your attention, please, to the middle
24 of this page. It's an email from Maria Ryan on April 7, and
25 she says, Hello, Rudy, which refers to you, and Ted, which

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1 refers to Mr. Goodman, are up in the great north woods in NH
2 for the eclipse. NH is New Hampshire?

3 A. Yes, it is.

4 Q. And the next line says, My family and I will be joining
5 them tomorrow. Monday we'll be out. The last line states, We
6 can do Tuesday at noon from the car driving to NY. Do you see
7 that?

8 A. I do see that.

9 Q. This document has information relevant to your travels in
10 the summer of 2024 -- I'm sorry. Strike that.

11 This email has information relevant to your travelers
12 in the spring of 2024; is that right?

13 MR. CAMMARATA: Objection.

14 THE COURT: Overruled.

15 A. Yes, to cover the eclipse for America's Mayor Live, which I
16 did for two days.

17 Q. And you did not produce this email?

18 MR. CAMMARATA: Objection, your Honor.

19 THE COURT: Overruled.

20 A. I don't know if I did or I didn't. You would know better
21 if I did or I didn't.

22 MS. GOVERNSKI: You can take this down, thank you.

23 Q. Mr. Giuliani, you recall during your direct exam, you made
24 various references to questions about the propriety of document
25 requests and about reservations that you had with respect to

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1 the discovery requests, right?

2 A. Yes, I do.

3 Q. And so, you chose not to produce materials based upon your
4 own personal questions about the propriety of the requests,
5 right?

6 MR. CAMMARATA: Objection.

7 THE COURT: Overruled.

8 A. I explained to you what they were, yes.

9 Q. I'm sorry. Was the answer to my question yes?

10 THE COURT: You got an answer. Go ahead. Next
11 question.

12 Q. Mr. Giuliani, do you recall in the underlying litigation
13 you relied on a vendor called Trustpoint?

14 MR. CAMMARATA: Objection, your Honor.

15 THE COURT: Overruled.

16 A. Yes. We did. We did rely on Trustpoint at one point.

17 Q. But you haven't used Trustpoint in this matter, right?

18 A. I don't think so.

19 Q. Okay. And, Mr. Giuliani, you recall that you testified
20 regarding a number of different cases in which you're a
21 defendant, right?

22 A. That is correct.

23 Q. Do you have the same lawyer in all of those cases?

24 A. I do not.

25 Q. Do you have the same lawyer in any of those cases? I

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Giuliani - Recross

1 withdraw the question.

2 Mr. Giuliani, does Mr. Cammarata represent you in any
3 other cases?

4 A. No, he does not.

5 Q. Mr. Giuliani, does Mr. Caruso represent you in any other
6 cases other than the appeal in this case?

7 A. No.

8 Q. So neither Mr. Caruso nor Mr. Cammarata represent you in
9 any of the other cases which you testified are in active
10 discovery, right?

11 MR. CAMMARATA: Objection, your Honor.

12 THE COURT: Yes, the objection is sustained. It
13 misstates the witness's testimony about active litigation.

14 Q. Are you in active discovery in other matters?

15 THE COURT: I'm sorry. Active discovery.

16 A. I don't think I am right now, no.

17 Q. When did that stop?

18 A. A month ago.

19 Q. At the point when you were in active discovery in other
20 matters, were you represented in any of them by Mr. Caruso or
21 Mr. Cammarata?

22 A. No.

23 Q. Mr. Giuliani, throughout your testimony today I've noticed
24 that there appears to be other people in the room with you; is
25 that true?

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Giuliani - Recross

1 MR. CAMMARATA: Objection.

2 A. That is true.

3 Q. Who is in the room with you?

4 A. My assistant, Ted Goodman, and Stephen Schumacher, who
5 assists us in doing my broadcast, and Vanessa Ryan, who are in
6 and out and helped me set this up.

7 Q. Only those three individuals?

8 A. That's correct. At some point, somebody delivered
9 something, but he walked right out.

10 Q. Mr. Goodman is your employee, right?

11 MR. CAMMARATA: Objection, your Honor.

12 THE COURT: Overruled.

13 A. Yes. Mr. Goodman is the producer of my show and my
14 colleague, yes.

15 Q. He works --

16 A. He's an employee of Standard.

17 Q. He works for you full time?

18 A. He does, yes.

19 Q. And would he be able to assist you in -- strike the
20 question.

21 And you pay Mr. Goodman?

22 A. Well, Standard does.

23 MR. CAMMARATA: Objection, your Honor. Relevance.

24 THE COURT: How many more questions on this particular
25 line?

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Giuliani - Recross

1 MS. GOVERNSKI: I'm winding down, but this is directly
2 relevant to his testimony about not being able to comply with
3 discovery.

4 MR. CAMMARATA: I would disagree, your Honor.

5 THE COURT: I'm not going to hear argument. Let's see
6 where it goes. There's no question pending at the moment.

7 BY MS. GOVERNSKI:

8 Q. Mr. Giuliani, does Mr. Goodman work for you full time?

9 A. He does, yes.

10 Q. Do you pay Mr. Goodman?

11 MR. CAMMARATA: Objection, your Honor.

12 THE COURT: Sustained as asked and answered.

13 A. Standard does.

14 Q. Mr. Giuliani, would Mr. Goodman be able to assist you with
15 your discovery obligations if you asked him to?

16 MR. CAMMARATA: Objection.

17 THE COURT: Overruled.

18 A. It would depend on the subject. He has only worked with me
19 for a year and a half. So the answer is yes and no.

20 Q. So if you asked him to log into your ProtonMail and do a
21 search, he could have done that for you, right?

22 MR. CAMMARATA: Objection.

23 THE COURT: Overruled.

24 A. Yes. He could do that, yes.

25 Q. You mentioned Stephen Schumacher. Does Stephen Schumacher

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Giuliani - Recross

1 work for you?

2 A. No, he doesn't.

3 Q. Do you pay Mr. Schumacher in any way?

4 MR. CAMMARATA: Objection, your Honor.

5 THE COURT: Overruled.

6 A. I'd have to go and check to see whether Standard hasn't
7 paid him as an outside contractor. I'm not aware of that, but
8 it's possible because he has done photographic work for us, for
9 example, on the eclipse and some other things.

10 Q. You mentioned Vanessa Ryan. That's Maria Ryan's daughter;
11 is that right?

12 A. Correct.

13 Q. And you had mentioned earlier that she's the individual
14 from whom you leased an apartment in New Hampshire in 2024; is
15 that right?

16 A. She's the one that I -- yeah. It was a two- or three-month
17 lease, yes.

18 Q. Did you coordinate that lease with her via email?

19 MR. CAMMARATA: Objection.

20 A. I doubt it.

21 Q. How did you communicate with her about that lease?

22 A. Talked to her about it.

23 Q. Okay. How did you receive the copy of the lease?

24 A. Any number of ways. I'm not sure.

25 Q. It could have been over email?

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Giuliani - Recross

1 A. It could have -- it could have been, yeah, or it could have
2 been just left on my desk when I got there.

3 Q. You mentioned Maria Ryan. Does Maria Ryan work for you?

4 A. She works with Standard, yes.

5 Q. Does she work for Standard full time?

6 MR. CAMMARATA: Objection, your Honor.

7 THE COURT: Overruled.

8 MR. CAMMARATA: How would he know? Okay.

9 A. I would say three-quarters of the time.

10 Q. And you said Maria Ryan helps you with a lot of the tasks
11 in your day-to-day life; is that right?

12 A. She does, yes.

13 Q. And that she has access to your ProtonMail, right?

14 A. Yes. Both of them do.

15 Q. So Dr. Ryan could have accessed your ProtonMail and
16 conducted the search if you had asked her to do it, right?

17 A. If I asked her to do it and gave her the information, she
18 could. She has limited knowledge of it, but she could do it,
19 yes.

20 Q. Okay. And you mentioned Ryan Medrano as well, right?

21 A. That is correct.

22 Q. And Ryan Medrano works for you; is that right?

23 A. He works for Standard, yes.

24 Q. And when you say "Standard," you mean it's one of the
25 corporations in which you're a majority owner, right?

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Giuliani - Recross

1 A. Correct.

2 Q. And does Mr. Medrano work for Standard full time?

3 A. No, he does not.

4 Q. About how much of his time does he work for Standard, if
5 you know?

6 MR. CAMMARATA: Objection.

7 THE COURT: Overruled.

8 A. I honestly don't know. You'd have to ask him that.

9 Q. You testified earlier that Mr. Medrano would have a number
10 of your corporate documents; is that right?

11 A. Yes, he has some. He has my corporate documents because at
12 times when I've needed them over the years, I've gotten them
13 from him.

14 Q. Okay. I'd like to ask you about that. So if you wanted to
15 receive a corporate document, you could just ask Ryan Medrano
16 to give it to you?

17 MR. CAMMARATA: Objection, your Honor.

18 THE COURT: Overruled.

19 A. It might begin that way, sure. Yeah, that might be the
20 first person I would ask, and then he would tell me he has it
21 or he can get it for me.

22 MS. GOVERNSKI: Your Honor, if I can just consult with
23 my colleagues for a moment?

24 THE COURT: Yes.

25 MS. GOVERNSKI: I have no further questions. Thank

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Giuliani - Redirect

1 you.

2 THE COURT: Mr. Cammarata, any redirect?

3 MR. CAMMARATA: A few questions.

4 REDIRECT EXAMINATION

5 BY MR. CAMMARATA:

6 Q. Mayor Giuliani, do you consider yourself technologically
7 savvy?

8 MS. GOVERNSKI: Objection.

9 THE COURT: Overruled.

10 A. I'm sorry. I did not hear the Judge's ruling.

11 THE COURT: The question, Mr. Giuliani, was whether
12 you considered yourself to be technologically savvy.

13 THE WITNESS: Thank you, your Honor. Was there an
14 objection?

15 THE COURT: Yes. There was an objection, and I
16 overruled the objection, so I'm permitting you to answer.

17 A. Okay. I will use an Italian expression, mezza mezza.

18 THE COURT: That means so-so?

19 THE WITNESS: It means -- yes, so-so would be perfect.
20 There are certain things I can do, but there are a lot of
21 things I can't do and don't understand. I certainly am not as
22 good as my children or Ted or -- but I can do the basic. I can
23 do the basic things. Hard to describe, and I get confused a
24 lot.

25 Q. And was it your prior testimony that your response to

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Giuliani - Redirect

1 discovery regarding messaging applications did not apply to
2 social media?

3 A. Yeah, I don't message on social media. I never have. I
4 message -- I have always used iPhones, I think. A short while
5 I didn't; that goes way back. So I've always used their text
6 message service, which was extremely convenient for the FBI
7 because it's all in my iCloud account. And they went and took
8 it without telling me for three years, as soon as I began
9 representing Donald Trump.

10 MR. CAMMARATA: No further questions, your Honor.

11 THE COURT: Okay. Mr. Giuliani, you're excused as a
12 witness.

13 (Witness excused)

14 THE COURT: Is there anything, Mr. Cammarata, further
15 on the contempt motion in the homestead action with respect to
16 the production of documents and responses to discovery?

17 MR. CAMMARATA: I'm sorry. I didn't hear the last
18 sentence.

19 THE COURT: Is there anything further from the defense
20 with respect to the contempt motion in the homestead action
21 regarding responses to discovery?

22 MR. CAMMARATA: No, not at this time.

23 THE COURT: All right. Is there any rebuttal from
24 plaintiff on that contempt motion? I'm not asking about the
25 turnover action. I'm asking about the contempt with respect to

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Giuliani - Redirect

1 the responses to discovery and the homestead action.

2 MS. GOVERNSKI: I'm sorry. Can I just have one
3 moment, your Honor?

4 THE COURT: Yes.

5 MR. CAMMARATA: Your Honor, just to clarify, you're
6 not talking about oral argument on the issue?

7 THE COURT: Correct.

8 MR. CAMMARATA: Oh, I would like to orally argue.

9 THE COURT: And I'm going to give you an opportunity
10 to do that.

11 MR. CAMMARATA: Thank you.

12 MS. GOVERNSKI: No rebuttal, your Honor.

13 THE COURT: Okay. So the record is closed with
14 respect to the contempt motion in the homestead action. I will
15 hear oral argument. It's now 12:43. Hold on for a moment.
16 We're going to take a break, and I'm going to tell you how long
17 a break we're going to take. Does 45 minutes work for the
18 parties? For the plaintiff?

19 MR. NATHAN: Yes, your Honor.

20 MR. CAMMARATA: Yes, your Honor.

21 THE COURT: Okay. Be back here at 1:30, and
22 Mr. Giuliani can participate remotely if he wishes to do so, or
23 he can listen in remotely if he wishes to do so. We'll see you
24 back here in a little bit.

25 (Recess)

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A F T E R N O O N S E S S I O N

1:30 P.M.

THE COURT: I'll hear oral argument on the motion for contempt. I'll hear first from the plaintiff and then from the defendant; and then if the plaintiff wants to reserve some time for rebuttal, I'll do that.

My hope is that you could each limit yourselves to half an hour. Does that work from plaintiffs' perspective?

MR. NATHAN: Certainly, your Honor.

THE COURT: From defendant's perspective?

MR. CAMMARATA: Yes, your Honor.

THE COURT: Mr. Nathan, are you presenting the argument?

MR. NATHAN: Yes.

THE COURT: How much time do you want for rebuttal?

MR. NATHAN: Five minutes should be fine.

THE COURT: Do you want us to give you a warning once you've gone to 20 minutes?

MR. NATHAN: Your Honor, I think 20 minutes for my initial presentation would be more than enough. I can save the ten for rebuttal. That may be a better division.

THE COURT: We'll give you the two-minute warning.

So we'll give you notice after 15 minutes.

I don't see, Mr. Cammarata, your client. He's not required to be on for this, but do we need to wait for him?

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1 MR. CAMMARATA: I don't believe so.

2 THE COURT: We're not going to wait for him.

3 MR. CAMMARATA: Of course.

4 THE COURT: Okay. Mr. Nathan, I'll hear from you.

5 MR. NATHAN: Thank you, your Honor.

6 And one quick point of clarification. I would prefer
7 to start with the issue relating to the interrogatory
8 responses, which I think may in some ways be logically prior to
9 some of the RFP issues that are also a basis --

10 THE COURT: That's fine with me. I should tell you my
11 instinct with respect to the interrogatories and response, the
12 third amended response, is that while I did not -- while I
13 issued an order requiring a response to the order to show cause
14 by a deadline that was not met, I do think that the third
15 amended response is relevant, not so much with respect to
16 whether the order has been violated, but with respect to
17 whether any discovery sanctions should be imposed and what
18 those discovery sanctions should be. So that is my current
19 inclination.

20 MR. NATHAN: I'm happy to address the third amended
21 interrogatory responses. But I will --

22 THE COURT: We'll start your time going now.

23 MR. NATHAN: I will begin there.

24 Your Honor, this case is ultimately quite
25 straightforward. After a day and a half of evidentiary

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1 presentations, there are very few disputes, if any, relating to
2 the facts that would be necessary for this Court to enter all
3 of the relief requested by the plaintiffs in their motion for
4 civil contempt and sanctions.

5 With respect to the interrogatories, the plaintiff
6 ignored and refused to respond to two key interrogatories here;
7 those initial responses were due on November 20th. Plaintiffs
8 filed a motion to compel those responses. That motion was
9 granted on December 17th. Defendant was ordered to respond by
10 December 20th.

11 Had he responded in a timely fashion, including by the
12 deadline given in this Court's order granting the motion to
13 compel, plaintiffs could have used those interrogatories for
14 the purpose that they were intended for: One, to explore the
15 connections that the defendant may or may not have established
16 or reestablished in the Palm Beach area when he claims to have
17 established a homestead there; and two, with respect to
18 interrogatory number eight, plaintiffs could have tested the
19 completeness of the defendant's discovery productions thus far.

20 Plaintiff -- excuse me, defendant finally did serve
21 these third amended responses on December 31st, which was four
22 days after the Court had ordered the record closed on December
23 27th. And I understand that your Honor is still interested in
24 hearing about the relevance of those third responses, so I'll
25 address them.

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1 Although before I do, I should note that the relevance
2 to the question whether sanctions are appropriate as opposed
3 perhaps to the question of what sanctions are appropriate –
4 although I don't think plaintiffs would take the position that
5 there's any change to that issue either – is constrained.

6 There's a line of cases tracing to the Supreme Court's
7 decision in *National Hockey League v. Metro Hockey Club*, in
8 which the Supreme Court reversed a Court of Appeals which had,
9 in turn, vacated a district court's discovery sanction entered
10 for failure to respond to interrogatories. And the Supreme
11 Court made clear that even when late compliance makes it appear
12 in hindsight the discovery sanction was too harsh, there are
13 still important purposes underlying Rule 37 that warrant
14 imposing sanctions anyway. They include the purpose not merely
15 to penalize the violator, but to deter those who might be
16 tempted to such conduct in the absence of such a deterrent.
17 That's at 427 U.S. Reports at page 639.

18 The Supreme Court said it may well be that these
19 respondents would faithfully comply with all future discovery
20 orders, speaking of the particular litigants in that case, and
21 that's a statement I probably would not make myself about the
22 defendant here. But the point is that that's not the only
23 consideration. There are considerations of general deterrence
24 that at least in that case and since have warranted harsh
25 discovery sanctions, even where a litigant finally complies

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1 only at the last minute. And in this case, the last minute was
2 the last day the depositions were permitted in this case, and
3 with insufficient time for the plaintiffs to serve any
4 discovery requests based on the interrogatory responses that
5 were finally provided.

6 As for the interrogatory responses that were provided,
7 we heard admissions today that although Mr. Giuliani disclosed
8 the last names of several of his doctors, he did not disclose
9 the first names, which I think the Court would agree is
10 essential information that would have permitted the plaintiffs
11 to actually use that information to identify the professionals
12 that he was asked to identify in those interrogatory responses.
13 Mr. Giuliani admitted that there was no reason he couldn't have
14 provided the first names of the doctors, only that he was in a
15 rush. He was in a rush because of his own failure to respond
16 in a timely fashion, including for two weeks after the Court
17 ordered him to do so.

18 In connection with the failure to comply with the
19 Court's order to answer -- sorry. Excuse me. One thing that
20 makes the defendant's refusal to answer those questions
21 especially galling is that the initial interrogatories
22 specifically asked him to furnish all information available to
23 him. That's at ECF 127-1 at page 3, paragraph 5. That's a
24 document that's been admitted into evidence. And the same
25 document required him, if he could not answer in full after due

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1 diligence, to so state in his interrogatory responses.

2 We heard the defendant say a number of times that when
3 he was served with these interrogatories, he thought that they
4 were too broad, in his opinion they were improper, and he
5 relied on his own personal views about -- and his own personal
6 reservations to justify his lack of compliance. That's not a
7 valid basis to refuse to answer a valid discovery request.

8 We also heard some suggestion that the defendant may
9 have sought clarification or a narrowing of the interrogatories
10 after they were served on him. I don't believe we actually
11 heard any evidence supporting that contention and there isn't
12 any.

13 The particular remedy that we've asked for in
14 connection with the interrogatories is four adverse inferences.

15 The first is an inference that the identities of the
16 professionals that the defendant was asked to identify in
17 interrogatory number four would show that the defendant was not
18 treating and did not begin to treat Palm Beach condo as his
19 permanent residence when he says he did or prior to August 8th,
20 2004.

21 A second one that would show affirmatively that he
22 instead treated the Palm Beach condo as his second home. And
23 with respect to the answers or the lack thereof to
24 interrogatory number eight, that true answers would show that
25 his discovery responses were incomplete and would show that the

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1 nonproduced materials contained -- included relevant
2 information.

3 It's plaintiffs' position --

4 THE COURT: Let me ask you about the first two
5 inferences that you are asking me to draw.

6 It strikes me that you're asking me to draw an
7 inference as to really the ultimate question in the homestead
8 case, or one of the ultimate questions in the homestead case.

9 If I were to draw an inference, wouldn't it be more
10 appropriate for me to draw an inference about what the
11 documents would show; and then from what the documents would
12 show, what conclusion I would reach. For example, they would
13 show that none of the doctors were in the Florida area or that
14 there was no change in the professionals between the time that
15 the homestead was in New York and the time that the homestead
16 was purportedly moved to Florida.

17 MR. NATHAN: Plaintiffs absolutely agree that the
18 Court can draw that narrower inference or, I should say, maybe
19 smaller inference. And I will address this much more when we
20 turn to the RFPs.

21 We think this is a case where the much broader
22 inference is certainly on the table. And there's no question
23 that the Court can draw an inference about the ultimate fact in
24 the litigation from the defendant's refusal to produce evidence
25 that the plaintiffs requested in relation to that fact. That

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1 goes all the way back to the *Hammond Packing* presumption from
2 1909; it's discussed throughout the Supreme Court's cases and
3 the Second Circuit's. Suffice it to say there's a mountain of
4 case law that says that's exactly why Rule 37 is able to
5 authorize the sanctions it does. Those include the authority
6 of a court to direct that fact be established against a party
7 who's refused to comply with the discovery order.

8 So while it's true that -- and stepping back, I
9 believe that at least with respect to the specific adverse
10 inferences that we've requested in connection with the
11 interrogatories, they do meet that more particularized
12 structure that your Honor is describing. And I apologize, I
13 don't have the -- I should have, but I don't have the exact
14 text in front of me.

15 But I believe that our -- the first two adverse
16 inferences we've requested are only that the true answers to
17 interrogatory number four would tend to show. And then yes, it
18 would tend to show that plaintiffs are correct about
19 Mr. Giuliani's true intentions with respect to the Palm Beach
20 condo, in substance.

21 It's not quite the same as the adverse inference we've
22 requested in connection with the RFPs, which I agree goes a
23 step farther and says that the Court should infer that
24 Mr. Giuliani, in fact, did not intend to establish the Palm
25 Beach condo as permanent residence by the time the plaintiffs

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1 had established thoroughly in there. But as I'm happy to
2 address further when we turn to the RFPs, we think that's well
3 within the Court's discretion and certainly, I think,
4 unquestionably authorized by Rule 37.

5 Unless the Court has further questions about the
6 interrogatory responses, I can turn to the request for
7 production now. I think I've addressed what there is to
8 address there. I'm not aware of any disputed facts relating to
9 what Mr. Giuliani did or didn't provide in response to those
10 questions; and the answers that he did provide in the third
11 amended responses are insufficient on their face.

12 I guess I should add, in connection with the
13 interrogatory number eight requesting accounts, emails, and so
14 forth, Mr. Giuliani admitted today that he has plenty of
15 accounts apart from the two phone numbers and the single email
16 address that he listed. He's got a variety of social media
17 accounts, he's got all sorts of stuff that he was obligated to
18 tell us about in response to that interrogatory but did not.

19 THE COURT: With respect to the motion on the broader
20 RFPs, I'm trying to understand what is served by the contempt
21 sanctions that you're seeking.

22 As you know, as the fact-finder in this case, if
23 you're correct about what you're asking me to infer, I can draw
24 a presumption as the fact-finder. What you're asking me for as
25 an adverse inference has some impact in a case where there's a

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1 jury; but where the Court is also the fact-finder, how much is
2 served by framing it as a contempt sanction?

3 MR. NATHAN: Well, I suppose I would distinguish maybe
4 three different scenarios from your Honor's question. One
5 would be in a jury trial where there might be an instruction,
6 including an adverse inference. And I can understand how that
7 would be important in a different way than it would be in a
8 nonjury case, where the same -- the Court is both ordering the
9 adverse inference and then applying it.

10 I would draw further distinction between contempt per
11 se as a sanction and the other sanctions authorized by Rule 37.
12 And we've asked for both.

13 Contempt is obviously a severe sanction warranted by
14 Rule 37, authorized by the Court's inherent power. But Rule 37
15 also authorizes the more specific evidentiary and preclusive
16 instructions -- excuse me, orders, inferences, that we've
17 requested.

18 In connection with the --

19 THE COURT: Actually, let me follow up on that.

20 In your view, are the inferences a contempt sanction
21 or is it authorized by one of the other provisions under Rule
22 37? In other words, do I need to satisfy the standard for a
23 severe sanction that would be required for contempt?

24 MR. NATHAN: Well, I'll choose my words carefully.

25 So in our view, contempt is among the sanctions

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1 authorized by Rule 37. But Rule 37 doesn't require a finding
2 of contempt in order to enter the remedies that are authorized
3 by 37(b), etc.

4 And having said that, the Court, in order to -- the
5 Court should follow the standards that are set forth in the
6 Second Circuit and Supreme Court's case law for Rule 37's
7 sanctions independent of the contempt sanction. And there is
8 some degree to which they overlap; but I think that's laid out
9 in our papers. And if the Court has any questions about
10 exactly which aspects of which standard apply here, as we turn
11 to the Rule 37(b)(2) sanctions, that's certainly something I'm
12 happy to address.

13 But stepping back, with respect to the RFPs in this
14 case, there is no dispute that the defendant was subject to a
15 clear and unambiguous order to comply with the RFPs. That
16 order was entered on November 22nd, 2024, when the Court
17 granted the motion to compel. The Court set a deadline of
18 November 26th. There's no dispute that the first time the
19 defendant served anything purporting to be a production
20 complying with the RFPs was on December 8th. There's no
21 dispute that that production is the only thing he served in
22 response to the plaintiffs' RFPs in this case.

23 There's also no dispute that the production contains
24 no emails, no text messages, no phone records. And both
25 because it has not ever been disputed and because we heard

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1 additional admissions today from Mr. Giuliani's testimony,
2 there's no dispute that there were responsive documents missing
3 that plaintiffs already know about.

4 Surely, only the tip of the iceberg, compared to the
5 voluminous emails that could have been searched for, collected,
6 and produced in response to the plaintiffs' requests for
7 productions in this case. Those included -- and these are just
8 the ones we know about -- documents in which Mr. Giuliani -- and
9 just limiting to emails only, in which he was copied on an
10 email relating to travel from New York to Florida.

11 Mr. Giuliani agreed on the stand that without -- you know,
12 without having read that email and thought about it, he
13 wouldn't be able to tell one way or the other whether he was
14 part of the team that had to travel from New York to Florida.
15 I mean, that almost states plaintiffs' point exactly. Without
16 having access to these documents, there was no way that we
17 could have done anything to investigate the weight that they
18 should be given, present them to the Court, make arguments
19 based on them.

20 THE DEPUTY CLERK: Five minutes.

21 MR. NATHAN: Thank you.

22 There is an email concerning travel from New Hampshire
23 to New York in the spring of 2024, where Mr. Giuliani was not
24 only copied on the email, but he was mentioned as one of the
25 people who would be traveling back to New York.

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1 Plaintiffs have also been able to uncover a lease for
2 an apartment that Mr. Giuliani rented in New Hampshire for the
3 period spanning July 14th through August 24th, in which he
4 specifically asks that notices be sent not to the address of
5 the leased apartment, but to his address in New York.

6 Again, this is the tip of the iceberg.

7 If plaintiffs were able to find just by clawing their
8 way to obtaining some nominal discovery from third parties, one
9 can only imagine the universe of responsive documents that were
10 in Mr. Giuliani's emails.

11 At the same time, based on his admissions in court
12 today, it's now clear that he took no steps whatsoever to
13 preserve, collect, search for, or produce any of the documents
14 in his email. And again, that's to say nothing of
15 Mr. Giuliani's other admissions that he essentially took no
16 steps to search for responsive documents, much less produce
17 them in this case.

18 We think that that is more than enough to grant us all
19 the relief we requested in the motion.

20 There's the icing on the cake of the Caruso
21 declaration. I know your Honor has mentioned that the matter
22 of the admissibility of that declaration is still under
23 advisement. I'm happy to address that now; we're also happy to
24 submit briefing later. But I would say we don't see any reason
25 why the admissibility of that declaration would need to hold up

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1 granting our motion.

2 The basics, if your Honor is interested, are only that
3 at the time he filed the declaration, Mr. Caruso was still
4 Mr. Giuliani's attorney. Mr. Giuliani didn't sign the paper
5 consenting to a substitution till the day after the declaration
6 was filed. But even then, it's undisputed – and the Court has
7 already recognized – that absent a court order, Mr. Caruso
8 could not have been relieved as Mr. Giuliani's attorney under
9 Local Rule 1.4.

10 What's unusual about this case is not that an
11 attorney's out-of-court admission would be offered against a
12 client under 801(d)(2)(D). What's unusual about this case is
13 that here, the client took steps that, through his own conduct
14 and statements, waived the privilege that would have otherwise
15 protected those statements from disclosure in the first place.

16 Admitting Mr. Caruso's declaration is not going to
17 create some sort of avalanche of attorney admissions offered
18 against clients here or anywhere else. In most cases, those
19 admissions will be as privileged as they always would be. And
20 it's Mr. Giuliani's own conduct that has changed the result
21 here.

22 THE COURT: Is it an adoptive admission? After all,
23 the motion was served on Mr. Giuliani and he didn't respond by
24 disputing any of the underlying facts.

25 MR. NATHAN: The short answer is yes, the Court can

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1 take that path as well.

2 Again, we don't think that there's any reason that the
3 Court would need to be creative in admitting that document.
4 Mr. Caruso was undisputedly Mr. Giuliani's agent at the time it
5 was filed; the statement related to a matter within the scope
6 of the representation. And what's more, even though the only
7 thing that I think was even in question was whether the
8 statement was made during the course of the representation, we
9 think under clear application of Local Rule 1.4, the answer to
10 that has to be yes. Otherwise, an attorney could file a
11 withdrawal application and nothing the attorney said from that
12 day forward would be admissible against the client. And that
13 makes no sense.

14 I will quickly just address the remedies.

15 THE COURT: You'll also address the argument that's
16 been made that it's all Mr. Caruso's fault, independent of
17 whether I take the declaration into account.

18 MR. NATHAN: Well, in some ways, the involvement of
19 Mr. Caruso in this factual narrative is a bit of a red herring.
20 Mr. Caruso was granted leave to withdraw on November 26th.
21 It's true that the totality of the productions that were made
22 in response to plaintiffs' RFPs were made after that date.
23 It's also true that those are the productions that are, I would
24 say, inarguably insufficient.

25 The conduct that predated Mr. Caruso's withdrawal

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1 violated -- well, I would say blew the deadline to respond to
2 plaintiffs' RFPs; but the violations of the Court's orders that
3 took place and which merit the sanctions in this case postdate
4 Mr. Caruso's representation of Mr. Giuliani. So the notion
5 that it's Mr. Caruso's fault that Mr. Giuliani violated court
6 orders requiring him to take steps after Mr. Caruso was his
7 lawyer is a little hard to take.

8 Look, the premise of the sanctions we're requesting in
9 this case is that it would be fundamentally unfair to require
10 the plaintiffs to litigate against a defendant who's permitted
11 to take the stand, give self-serving testimony, without ever
12 having to produce the documents that plaintiffs would be able
13 to then use to test his claims and prove their own case. It
14 would be fundamentally unfair to let him litigate based on a
15 record of his own choosing. That's just not how discovery
16 works.

17 Separately, the Court has warned that witnesses who
18 don't make complete document productions won't be permitted to
19 testify at this trial. That's relief the plaintiffs are going
20 to seek separately. But in addition to relying on -- excuse
21 me. In addition to that, we just don't see how the purposes
22 served by Rule 37 could also be served by permitting
23 Mr. Giuliani to rely on a cherry-picked record and force the
24 plaintiffs to try this case with one or two hands tied behind
25 their backs.

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1 I'll save the rest for rebuttal.

2 THE COURT: Mr. Cammarata.

3 MR. CAMMARATA: Thank you, your Honor.

4 At the opening of this proceeding, Mr. Nathan gave a
5 statement that the plaintiff -- that the defendant took no
6 steps to complete discovery.

7 I couldn't disagree more. There's been substantial
8 compliance.

9 The Court would be remiss not to consider the
10 extremely limited time frame --

11 THE COURT: Do you want a five-minute warning?

12 MR. CAMMARATA: I'm sorry. Yes.

13 THE COURT: Okay.

14 The Court would be remiss not to consider the
15 extremely limited time frame that Mayor Giuliani was required
16 to comply with this magnitude a request that plaintiffs
17 propounded in an enforcement proceeding.

18 From the outset of the case, August 30th, 2024, until
19 present date, is a short time. Even given the short discovery
20 period, Mayor Giuliani has either fully complied or
21 substantially complied with discovery. This discovery process
22 should have been, in a typical case, approximately four to six
23 months. Rather, the short time frame imposed with certain
24 propounded demands must have been replied to in 14 days, had a
25 significant impact on Mayor Giuliani, who is 80 years old.

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1 The plaintiff propounded discovery and is sitting back
2 saying there's been no compliance, cherry-picking, Well, we
3 have an email that he might not have gave forward, despite
4 multiple people having access to the emails, and whether or not
5 he even knew about this email which was just presented today.

6 In the last one and a half to two weeks, there were
7 six depositions that took place, two in Florida and four in New
8 York.

9 THE COURT: The first of those depositions was what
10 date?

11 MR. CAMMARATA: I believe the first deposition was the
12 first week of December, which was Andrew Giuliani.

13 THE COURT: Okay. And then the next one was?

14 MR. CAMMARATA: The next one was December 26 -- I
15 mean, I'm sorry, mid December was Andrew Giuliani, I believe
16 somewhere on the 20th range.

17 THE COURT: Okay.

18 MR. CAMMARATA: I don't have the exact date, so please
19 forgive me. I know in Florida, the deposition where plaintiffs
20 and defendant's counsel were present on December 26th was
21 Monsignor Alan Placa. On December 27th, the deposition of
22 defendant Rudolph W. --

23 THE COURT: Was Mr. Giuliani present for Mr. Placa's
24 deposition?

25 MR. CAMMARATA: No.

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1 THE COURT: Okay.

2 And then there is the 27th, Mr. Giuliani.

3 MR. CAMMARATA: 27th, Mr. Giuliani.

4 THE COURT: And then there were --

5 MR. CAMMARATA: 31st, there was three depositions on
6 the 31st.

7 THE COURT: Okay.

8 MR. CAMMARATA: Theodore Goodman, Dr. Maria Ryan, and
9 Ryan Medrano.

10 THE COURT: I take it he wasn't present for any of
11 those; is that right?

12 MR. CAMMARATA: He was not.

13 THE COURT: Okay.

14 MR. CAMMARATA: This was an extraordinary short
15 discovery period. Mayor Giuliani, as he testified in his
16 deposition and in open court, is involved in approximately six
17 criminal and civil cases.

18 THE COURT: I thought he testified also that at the
19 relevant time there were no other discovery obligations in any
20 of the cases.

21 MR. CAMMARATA: I think that testimony, if I'm not
22 mistaken, he was referring to within the last month or so.

23 THE COURT: Right. That's the time frame we're
24 talking about.

25 MR. CAMMARATA: The elements for contempt. The order

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1 of the contempt are failed to comply with is clear and
2 unambiguous, the proof of noncompliance is clear and
3 convincing, and the contemnor has not diligently attempted to
4 comply in a reasonable manner.

5 Civil contempt sanctions serve two purposes: One, to
6 coerce a party into compliance; or two, to compensate the
7 adverse parties for any losses as a result of lack of
8 compliance. Holding the defendant in civil contempt and for
9 sanctions are not appropriate in this case. Plaintiffs have
10 failed to establish by clear and convincing evidence that the
11 defendant violated the district court edicts and, therefore,
12 based on the Court's inherent authority, sanctions should not
13 be applied.

14 Once my office took over from opposing counsel, there
15 was undisputably substantial compliance with court orders.

16 THE COURT: When you use the word "indisputably," I
17 think that is very much the subject of dispute --

18 MR. CAMMARATA: Understood.

19 THE COURT: -- argue it.

20 MR. CAMMARATA: Because there has been substantial
21 compliance with orders, and the defendant's -- the defendant's
22 sanctions are not required and should not be imposed to coerce
23 the defendant into complying. He has complied.

24 Plaintiffs have not suffered losses by any
25 noncompliance, either monetary or other.

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1 This case should be heard on the merits, your Honor,
2 regarding the homestead of the defendant in Florida.

3 Plaintiffs' counsel is operating *pro bono* on this
4 case, so there is no financial harm to the plaintiffs for any
5 alleged noncompliance. The defendant does not need to be
6 coerced because he substantially complied.

7 Plaintiffs are asking for adverse inferences, which is
8 the death penalty. It would end this case today. This case
9 needs to be decided on the merits.

10 The defendant has complied with all requirements under
11 the Florida Constitution to obtain homestead. The
12 administrative body of Palm Beach County Clerk and Tax Assessor
13 had made a determination to grant homestead, which should not
14 be overturned by this Court.

15 THE COURT: But you understand, that, in particular,
16 is not a good argument because the law is 100 percent clear
17 that the determinations by the tax authorities with respect to
18 the homestead tax position is not preclusive of the separate
19 constitutional issue of homestead protection. In fact, it's
20 not clear to me that it's even relevant, but the fact of the
21 filing probably has some relevance. But the legal proposition
22 that I would be overturning is just wrong as a matter of
23 Florida law, unless you've got a case that you want to cite to
24 me.

25 MR. CAMMARATA: I will address further.

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1 I respectfully submit that there should be no finding
2 of contempt on the imposition of sanctions against the
3 defendant. I respectfully submit that this was a very fast
4 case from the initial discovery order until today; and that
5 there were many discovery demands propounded by plaintiffs upon
6 the defendant.

7 As stated before, I worked very diligently with the
8 defendant: Multiple trips to Florida, meetings and conferring
9 and procuring documents. I hope your Honor sees that the
10 defendant was not interfering with the discovery process as you
11 sit here today.

12 Your Honor can agree that the discovery time frame was
13 very aggressive to get us to trial scheduled for January 16,
14 2025. And the defendant, as well as myself, made diligent
15 attempts to get items turned over to the plaintiffs, as well as
16 promptly respond to discovery.

17 This is not a case like many others which were before
18 your Honor, where a party completely disregarded discovery
19 obligations, and willfully and intentionally disobeyed court
20 orders. This is not the case here.

21 In *P.C. v. Driscoll*, case number 24-CV-2496, on
22 December 18, 2024, your Honor declined to impose sanctions
23 where plaintiff moved to compel defendants to supplement
24 discovery responses and produce documents in compliance with
25 court orders at the October 28th, 2024 hearing.

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1 Your Honor stated: "Defendant's explanation for the
2 delayed and incomplete production is underwhelming; and that
3 defendant's counsel stated that he was traveling on a
4 preplanned vacation from November 3rd to November 10th, but
5 provided no explanation as to why he could not have collected
6 documents during the six days prior to his vacation or why he
7 failed to arrange for another attorney to assist while he was
8 away.

9 In *Acmetel USA LLC v. PTGi International*, case
10 23-CV-11027, on October 10, 2024, your Honor declined to impose
11 sanctions or awards of attorneys' fees, and declined to strike
12 the answer as requested by plaintiff where plaintiff moved to
13 compel defendant to produce a notice witness for a 30(b)(6)
14 deposition.

15 In *Yeul Hong v. Mommy's Jamaican Market*, case number
16 20-CV-9612, on September 25th, 2024, your Honor denied
17 defendants' motion for sanctions against their former attorney,
18 but held that defendants were entitled to reimbursement for
19 fees and costs in bringing a motion for sanctions. Your Honor
20 awarded 37,108.74 in attorneys' fees in that case.

21 THE COURT: That's not necessarily the best case for
22 you. Because the reason why I didn't award sanctions had to do
23 with the particular posture of a client asking for sanctions
24 against his attorney.

25 MR. CAMMARATA: Understood.

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1 In *Accettola v. Linda Mei He*, case number 23 CV 1983,
2 on September 23rd, 2024, your Honor awarded defendant
3 attorneys' fees as a sanction for plaintiff's failure to appear
4 at her noticed deposition.

5 In this case, defendant has provided the following
6 responses to demands: On November 18, 2024, a letter was sent
7 to Citibank to turn over all exempt assets. On November 27th,
8 an email was sent to plaintiffs' counsel with a marked-up
9 power-of-attorney from plaintiffs' counsel --

10 THE COURT: You're now arguing the turnover. I'm not
11 hearing argument with respect to the turnover.

12 MR. CAMMARATA: Okay. I'm just showing compliance
13 with your Honor's orders and that there is no defiance to the
14 Court. I'm not going to tread into turnover; I just want to
15 substantially show compliance with orders.

16 On November 27th, an email was sent to plaintiffs'
17 counsel with a marked-up power-of-attorney that plaintiffs'
18 counsel requested defendant to sign on November 26, 2024,
19 which, as Mr. Nathan testified, was never responded to by
20 plaintiffs' counsel after I sent it to them on November 27,
21 2024.

22 The declaration of Mr. Nathan sounded that Mayor
23 Giuliani had failed or refused to comply. That's simply not
24 the case.

25 On December 1st, 2024, defendant's response to

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1 plaintiffs' first set of interrogatories was provided. It is
2 in the court docket as docket entry 143 and 165-6.

3 On December 6, defendants' inventory of the items in
4 storage facility was provided.

5 On December 7, 2024, defendant's amended response to
6 plaintiffs' first set of interrogatories was provided. It is
7 in court docket as docket entry 143 and 165-5.

8 On December 7th, 2024, defendant's response to
9 plaintiffs' first set of interrogatories, with 19 exhibits, it
10 is in the court docket as entry 143 and 165.

11 On December 8th, 2024, defendant's amended initial
12 disclosures pursuant to Federal Rule of Civil Procedure
13 26(a)(1), it is in the court docket as entry 143 and 165-20.

14 On December 17, 2024, defendant's second amended
15 response to plaintiffs' first set of interrogatories was
16 provided. It's in the court docket as docket entry 143 and
17 165-7.

18 On December 17th, defendant's second amended initial
19 disclosures pursuant to Federal Rules of Civil Procedure
20 26(a)(1), which is in the court docket entry as 143 and 165-21.

21 On December 31st, 2024, the defendant's third amended
22 response to the plaintiffs' first set of interrogatories was
23 provided to plaintiffs, answering interrogatory four and
24 interrogatory eight, after the Court's order directing the
25 defendant to answer interrogatory four and eight. Defendant

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1 complied.

2 What is important to know about those responses are
3 the phone numbers and emails were provided as requested, and
4 the names of attorneys, financial advisers, and also doctors
5 were provided. But once provided, the plaintiffs stand here
6 today and say, Well, we needed the first names. That should
7 absolutely be -- it shows noncompliance. That's not the case.

8 I respectfully submit that the defendant's actions in
9 this case do not meet the required legal standard of
10 willfulness and intent to disobey court orders. Your Honor
11 discussed contempt in -- forgive me for not pronouncing it, so
12 I'll spell it. K-E-A-W-S-R-I v. Ramen-Ya, Inc., 2023 U.S.
13 District Court, Lexus document 204713 at 3-4, Southern District
14 of New York, November 15, 2023, case number 17-CV-026406 LJL,
15 where your Honor stated: Civil contempt sanctions serve two
16 purposes: To coerce a party into compliance or to compensate
17 adverse parties for any losses suffered as a result of lack of
18 compliance.

19 Civil contempt sanctions would not be necessary or
20 appropriate in this case, as coercing the defendant is not
21 necessary, as there has been substantial compliance as stated
22 above with the discovery demands and adverse party. The
23 plaintiffs did not suffer any monetary losses as a result of
24 any lack of alleged compliance -- any alleged lack of
25 compliance by the defendant.

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1 Under prevailing legal standards, a finding of
2 contempt requires clear and convincing evidence that the
3 alleged contemnor had knowledge of the court order, had the
4 ability to comply with it, and willfully fully close to disobey
5 it.

6 Here, the defendant substantially complied with the
7 Court's orders and never chose to disobey the orders, as
8 reflected by his testimony and actions. Based on testimony,
9 the Court heard Mr. Nathan testify that he and I were
10 negotiating the power-of-attorney that the plaintiffs' counsel
11 requested for the cooperative apartment that I have the
12 defendant sign, transfer ownership of New York cooperative
13 apartment to the plaintiffs. Clearly, the defendant was not
14 interfering with the transfer of the New York cooperative
15 apartment or disobeying the Court's order.

16 Mr. Nathan admitted that I sent him proposed changes
17 to the power-of-attorney documents that they requested.
18 Mr. Nathan never got back to me with whether the changes were
19 acceptable or not.

20 The Court also should note that the document that was
21 requested was a power-of-attorney, which is really not
22 necessary to transfer the cooperative apartment to plaintiffs.
23 However, I had no problem giving plaintiffs the
24 power-of-attorney; but the power-of-attorney had to be limited
25 to the transfer of the cooperative, not include real estate --

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1 unfettered real estate transfers for Mayor Rudolph Giuliani,
2 which would have essentially given power to transfer his
3 primary residence and sole residence, which is his Florida
4 homestead.

5 I never received modifications or response to that
6 power-of-attorney. However, plaintiffs have tried to craft
7 their declaration and utilize that as a spear at the defendant,
8 as if he was not complying with discovery.

9 Had plaintiffs' counsel really wanted to conclude the
10 New York cooperative matter, plaintiffs' counsel would have
11 finalized the power-of-attorney with me. But Mr. Nathan
12 admitted to not doing that.

13 Based on the testimony that the Court heard this,
14 Court should be able to see that the defendant has
15 substantially complied with voluminous discovery demands and
16 has set forth nearly 600-plus pages of documents that were
17 served on plaintiffs' counsel, and also the defendant fully or
18 substantially complied with other orders of the Court.

19 The homestead case is not complicated. And the
20 plaintiffs' counsel were seeking extraordinary and voluminous
21 demands. We did the best we could to comply with plaintiffs'
22 discovery demands.

23 Defendant did substantially comply. Prior to me
24 taking over as defendant's counsel, defendant's prior counsel
25 did not deliver response to discovery demands made by

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1 plaintiffs, blaming the defendant for nonproduction. However,
2 I know as a fact when I asked the defendant to cooperate, the
3 defendant cooperates. When I notify the defendant that I'm
4 flying to Florida to meet and confer, he makes himself
5 available. Mayor Rudolph Giuliani has a very, very busy
6 schedule, however, has never once told me, No, I cannot speak
7 to you; no, I cannot send something; no, I cannot meet you.

8 He has been fully compliant with me.

9 I do not know the intimate details of the
10 attorney-client breakdown between him and prior counsel, but I
11 can tell you he has fully complied with everything that I have
12 asked for.

13 I do not have a problem with the defendant in his
14 discovery responses, and I respectfully submit to the Court
15 should not hold the defendant in contempt and sanction the
16 defendant for any lack of production of discovery responses.
17 Because documents were produced, interrogatories were answered,
18 and dozens of items in responsive documents were turned over to
19 plaintiffs.

20 It was not the defendant who refused to respond to
21 discovery demands. It was also not the defendant who was
22 intentionally disobeying any orders of this Court. The
23 defendant does have respect for this Court and its court
24 orders.

25 Once I began to represent the defendant, the

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1 plaintiffs received responses to discovery, and received over
2 40 items of additional items turned over in the other
3 proceeding. I won't get into that.

4 I certainly disagree with the affidavit of Kenneth
5 Caruso, where he said that the defendant was not cooperative,
6 because the defendant was very cooperative with me. I did not
7 have that type of problem with the defendant, and the
8 defendant's testimony shows that he did not intend to disobey
9 the court orders.

10 The defendant testified today in open court that the
11 attorney-client relationship had broken down for -- since the
12 end of October. That was the heart of when items were
13 propounded and becoming due. The defendant testified in front
14 of your Honor that he wasn't receiving phone calls and
15 responses from his attorney; that his attorney may have been
16 reaching out to third parties to pass messages. Well, the
17 rules of ethics and ethical obligations as an attorney does not
18 permit us to pass messages through a third party. Certainly if
19 he's not responding to his client, how can his client respond
20 to discovery demands?

21 There was an issue raised by -- hold on.

22 The Kenneth Caruso declaration should not be permitted
23 into evidence. It's hearsay. The plaintiffs could have called
24 Mr. Caruso to testify as to the contents.

25 Although I filed a notice of appearance on

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1 November 15, 2024, a consent to change attorney was executed by
2 both attorneys and forwarded to the Court approximately on
3 November 19th, between the 17th and 19th. Said consent to
4 change attorney wasn't signed and I was not officially on the
5 case and Mr. Caruso was not officially off the case till
6 November 26, 2024. Had the consent been changed, the
7 certification and the motion -- the declaration of Mr. Caruso
8 and the motion to be relieved would have been moot.

9 There is an issue raised by plaintiffs regarding
10 interrogatory four and eight. The defendant responded to
11 interrogatory four and eight as directed by your Honor's order.
12 The responses were provided to plaintiffs' counsel on December
13 31st, 2024 at approximately 7:11 p.m. The defendant provided
14 names of attorneys, financial professionals and medical
15 providers who the defendant consulted with, along with the
16 defendant's cell phone numbers and personal email numbers.
17 Defendant fully complied with those interrogatories, your
18 Honor.

19 There is no reason to hold the defendant in contempt
20 or sanction the defendant because there is substantial
21 compliance. There is no need to coerce the defendant because
22 compliance -- by compliance -- for compliance by sanction are
23 contempt.

24 Also, the plaintiff has not shown that they were
25 harmed in any way by the delayed response. After the Court

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1 denied the defendant's motion for a protective order, a
2 contempt order issued pursuant to a court's inherent authority,
3 is warranted only where the moving party establishes by clear
4 and convincing evidence that the alleged contemnor violated a
5 district court's edicts, citing *King v. Allied Vision, Ltd.*,
6 65 --

7 THE COURT: Let me ask you a legal question.

8 In a circumstance where a party fails to search for
9 discovery -- I'm asking this on a hypothetical basis, fails to
10 search for discovery -- the adversary proves that if there was
11 discovery -- if there were relevant documents -- that if a
12 search had been conducted, there likely would have been
13 relevant documents, and there's no other excuse for the failure
14 to search for documents, are you saying that the party who
15 didn't get the discovery hasn't been injured because they are
16 unable to identify the universe of documents that its
17 adversary, by violating discovery orders, has not turned over?
18 I mean, that's -- can't be a correct legal proposition.

19 MR. CAMMARATA: I understand. But every case is
20 case-by-case. We have to look who the defendant is and what
21 the mechanisms the defendant has and the faculties the
22 defendant has to produce said documents.

23 In a situation like this, putting aside that he is
24 Mayor Rudolph Giuliani, he is an 80-year-old man, he's been
25 displaced, property has been put into facilities, boxes of

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1 documents going all the way back from prior to September 11th,
2 through September 11th, stuff from when he was representing
3 clients, he lives in Florida, has been restrained from
4 accessing certain facilities which may have had certain
5 discovery documents within there, there was an order
6 restraining him from accessing property.

7 So we go case-by-case. And in this particular
8 situation, my client had testified -- and with all due respect
9 to Mayor Giuliani, the question I asked him was a hard question
10 to ask a man of his position, but he did testify *menzamenz*.
11 And I can tell you firsthand that he is not as technologically
12 savvy as most litigants that come before your Honor. So I do
13 understand your Honor's question, but I think it should be
14 dealt with on a case-by-case basis.

15 I respectfully submit that the plaintiff, as movants,
16 have not established the order that the defendant failed to
17 timely comply with a clear and unambiguous order; that the
18 proof of the noncompliance is not clear and convincing; and
19 that the defendant has not diligently attempted -- or defendant
20 has diligently attempted to comply in a reasonable manner.
21 Here, the third element was not proven because the defendant
22 did diligently -- I'm sorry. Let me correct the record.

23 Element three is that the defendant has not diligently
24 attempted to comply in a reasonable manner.

25 Here, the third element was not proven, because the

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1 defendant did diligently attempt to comply with all his
2 obligations in a reasonable manner, based on his faculties,
3 based on his current situation, based on the totality of
4 circumstances.

5 THE DEPUTY CLERK: Five minutes.

6 MR. CAMMARATA: Thank you.

7 Mayor Giuliani has testified -- Mayor Giuliani has
8 testified before your Honor that he has had the assistance of
9 all this dating back to his days as the chief of staff to the
10 U.S. Attorney's Office, since the 1980s until now. This is
11 what he's used to.

12 Without sounding in testimony, one can infer that if
13 you have that type of assistance, it may lend itself to having
14 less capability to do certain things yourself because they've
15 been done for you for so long.

16 In the defendant's memorandum of law, we noted that
17 the New York CPLR requires that the receiver --

18 THE COURT: So it seems to me that argument goes, if
19 anything, to the question of willfulness. But I don't actually
20 need to find willfulness to find contempt, although it
21 certainly would be relevant. I mean, the CEO of a company who
22 is served with a discovery response is not relieved from her
23 obligations because she's the CEO, is she?

24 I'm sorry.

25 MR. CAMMARATA: I don't believe so. I don't believe

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1 it would. But, again, it's a case-by-case. I wouldn't know
2 what the duties of that particular CEO are at that point. I'm
3 not trying to mince words with the Court, but without more
4 information...

5 In this case, the evidence demonstrates that any
6 noncompliance, if found, was not intentional or deliberate, but
7 rather result of circumstances beyond the defendant's control
8 or a good-faith misunderstanding.

9 We've heard the testimony. Ultimately, a voluminous
10 amount of documents was provided by the defendant to the
11 plaintiff in response to plaintiffs' discovery demands.

12 (Continued on next page)

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1 MR. CAMMARATA: There is no evidence to suggest a
2 deliberate or malicious attempt to violate any directives
3 issued by this Court. Instead, the record reflects that the
4 defendant has taken reasonable steps to adhere to the Court's
5 instructions to the best of their ability.

6 Any alleged noncompliance was due to factors that were
7 either unforeseen or unavoidable, including problems with the
8 defendant's prior counsel. If logistical, financial or other
9 practical challenges impeded defense's ability to fulfill the
10 order, those challenges should not be construed as contemptuous
11 behavior. The defendant has made sincere efforts to address
12 these issues of discovery promptly and has communicated in good
13 faith with plaintiffs through me.

14 Finally, imposing a finding of contempt in this case
15 would not serve the interest of justice. The purpose of
16 contempt sanctions is to ensure compliance with Court orders,
17 not to punish individuals for inadvertent, unintentional
18 noncompliance. The defendant's conduct does not reflect the
19 type of deliberate defiance or disregard that contempt
20 proceedings are designed to address.

21 I'm wrapping up.

22 THE COURT: I'm not rushing you.

23 MR. CAMMARATA: Okay. Plaintiffs are trying to
24 sidestep the trial. Plaintiffs don't want this trial.
25 Plaintiffs are doing everything they can to end this today,

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1 which would be the most harsh remedy that could be imposed out
2 of any remedy on this planet. To end the case today and
3 essentially decide the homestead that is in dispute, it would
4 be the death penalty in this case.

5 This case should be heard on the merits regarding the
6 homestead of the defendant in Florida. Truly, plaintiffs
7 should not even be bringing this case because plaintiffs know
8 that when they filed their judgment in the United States
9 District Court for the Southern District of Florida and the
10 United States District Court for the Southern District of New
11 York, the defendant was at that time, and well before, a
12 citizen domiciled and a permanent resident in the state of
13 Florida.

14 The Court should read between the lines of the
15 plaintiffs' motion and realize that the only reason why the
16 plaintiffs are seeking severe sanctions are because the
17 plaintiffs would like this Court to say the defendant should
18 not be permitted to put on a defense at trial. Because if this
19 case does proceed to trial, the facts are that the defendant is
20 entitled to claim homestead in Florida in accordance with the
21 Florida constitution. So the only way the plaintiffs have to
22 victory in this case, the only pathway, is to end this today
23 through a technicality and a sanction that should never have
24 even been imposed.

25 Adverse inferences should not apply in this case.

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1 Adverse inferences, as Mr. Nathan has stated in his oral
2 argument, is looking for not providing doctors' first names to
3 be an adverse inference that the defendant is not homestead in
4 Florida. People travel to doctors in New York from Alaska,
5 from Hawaii, and certainly from Florida. So if the defendant
6 has certain doctors in Florida and has certain doctors in New
7 York, it shouldn't be indicia that there's not homestead, and
8 that's exactly what plaintiffs are trying to do.

9 Your Honor, an email was put forward today, on I
10 believe it was recross by the plaintiffs, that was an email
11 sent to a third party that described potentially where Mayor
12 Rudolph Giuliani was traveling from. I believe it was from the
13 mountains or forest in New Hampshire to New York, and that's a
14 basis to seek sanctions, and severe sanctions, because that may
15 have not been turned over when he was only cc'd on an email and
16 that's considered quote/unquote travel.

17 Well, I have news for plaintiffs. I'm going to be
18 traveling when I leave this courtroom to my car in the parking
19 garage. If I sent an email to my son and said: I can't talk
20 right now; I'm traveling to the car -- to get the car from
21 court, that's technically considered travel. As humans, every
22 step we take is travel. I can't imagine that every email that
23 talks about where we're going is travel and should be a basis
24 to impose severe sanctions on my client. And your Honor --

25 THE COURT: Your time is up.

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1 MR. CAMMARATA: Can I have one sentence? The
2 October 28, 2024, case management scheduling order has a
3 discovery end date of January 9, 2025.

4 THE COURT: The last date for depositions was
5 December 31; is that right?

6 MR. CAMMARATA: Yes, yes. And even this weekend, my
7 client has took additional diligent efforts, as he testified
8 today, to procure more documents and ask for assistance in
9 finding other things. That's the type of compliance that my
10 client has shown this Court and has shown the plaintiffs.

11 I ask the Court to deny sanctions, and
12 certainly—certainly—do not hold him in contempt and apply any
13 adverse inferences that would be the death penalty to my client
14 for his sole and primary residence in the state of Florida.
15 Thank you, your Honor.

16 THE COURT: Let me ask you one question, which doesn't
17 necessarily go to this contempt motion, but since you mention
18 it and since you mentioned it earlier, has the signed title
19 document for the Mercedes been turned over to the plaintiffs so
20 that the car can be sold?

21 MR. CAMMARATA: Very good question. My client has
22 retrieved that.

23 THE COURT: I gather that. Do they have it in their
24 possession?

25 MR. CAMMARATA: I believe it's been transmitted to my

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1 office from Florida now. There is -- I believe it's reflected
2 on there that there may be Judy, Judith Giuliani, formerly
3 Mr. Giuliani's wife, is on there. And my client has indicated
4 to me that he has reached out to DMV to get a supplemental
5 title inherently trying to remove her, so we can get this in
6 compliance. So even on the weekend he has been doing things,
7 since Friday, since we left here at 5:30 at night, he's doing
8 things to comply with your Honor. So --

9 THE COURT: Are you making a representation to the
10 Court in terms of when he reached out to the DMV the most
11 recent time?

12 MR. CAMMARATA: I can't do that. I can tell you that
13 it's been communicated to me that that is on the way up here.
14 We're going to stay on top of it, and it's a priority. We're
15 trying to see if we can get that substitute title with a
16 divorce decree potentially attached to an application to see if
17 we can get it. So it's not noncompliance. It's cutting
18 through a lot of red tape in an administrative agency, and we
19 all know how that can be. I don't think anybody in this
20 courtroom likes to go to the DMV.

21 THE COURT: It's not hard.

22 Okay. Mr. Nathan, let me hear from you.

23 MR. NATHAN: Thank you, your Honor. Plaintiffs wanted
24 a trial in this case. Plaintiffs are still prepared to go to
25 trial, but what plaintiffs really wanted was all of the

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1 evidence that would have been relevant to their claims, as any
2 litigant would be entitled to. Mr. Giuliani chose not to
3 produce that evidence in response to valid discovery requests
4 and despite numerous orders of this Court compelling his
5 compliance.

6 The reality is that if the facts were what he now says
7 they are, he would have produced the evidence demonstrating
8 that. That's the core of the *Hammond Packing* presumption, that
9 underwrites Rule 37's authority to enter adverse inferences
10 against a noncompliant party. As of this moment, we still have
11 not heard an explanation, despite the protestations about why
12 contempt might not be appropriate in this case, contentions
13 which the plaintiffs still dispute, we have not heard an
14 explanation for why Rule 37 inferences are not appropriate in
15 light of Mr. Giuliani's failure to comply with discovery
16 requests.

17 As for the idea that this case should be decided on
18 the merits, again, plaintiffs have always wanted this case to
19 be decided on the merits. But to be precise, the case still
20 will be decided on the merits if the plaintiffs requested Rule
21 37 sanctions are entered. The adverse inferences, if they are
22 accepted, would then lead to a judgment on the merits.
23 Plaintiffs, by the way, are also simultaneously seeking summary
24 judgment, which, if granted, would lead to a judgment on the
25 merits on the basis of the undisputed facts in this case.

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1 Either path, or both, would lead to a final judgment on the
2 merits in plaintiffs' favor, as would a verdict, or a bench
3 verdict, after trial.

4 Mr. Giuliani's opposition comes down to the argument
5 that he has made substantial compliance with the Court's
6 discovery orders. On that we think the record speaks for
7 itself. We heard about 19 exhibits. The 19 exhibits that are
8 admittedly the totality of his production in response to the
9 RFPs, but the RFPs themselves and this Court's motion to compel
10 required Mr. Giuliani to collect and produce all responsive
11 non-privileged documents. That would include, by the way, an
12 email that mentioned the word "travel." If the RFPs sought,
13 hypothetically, for all documents and communications relating
14 to travel, that's the type of email that would be captured,
15 collected, and produced in response to RFPs if any rudimentary
16 type of electronic discovery efforts were employed in this
17 case.

18 On top of all that, at this point, Mr. Giuliani is not
19 even arguing that he did make a complete production in response
20 to the RFPs themselves or that he tried to do it. His own
21 prior counsel testified that he affirmatively refused. The
22 Court doesn't need to make any findings with respect to
23 Mr. Giuliani's intent to disobey the discovery orders in order
24 to award Rule 37 sanctions, but the record amply supports those
25 findings. Mr. Giuliani's defense appears to be that he did

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1 produce 19 exhibits and served three amendments to
2 interrogatories, but that's it. Aside from that, all we've
3 heard about is more efforts to put the plaintiffs' own law firm
4 on trial about unrelated matters in the turnover proceeding.

5 Fundamentally, this case comes down to the principle
6 that a party cannot benefit from their own failure to comply
7 with court orders. The standards for Rule 37 sanctions, laid
8 out in the Second Circuit's decision in *Southern New England*
9 *Telephone Company*, that is, 624 F.3d 123, applies squarely
10 here. Specific deterrence, while it may be something of a lost
11 cause with respect to this specific defendant, is still an
12 important factor. General deterrence, even more important, and
13 the fundamental fairness considerations involved in protecting
14 parties from -- or ensuring that parties do not benefit from
15 their failure to disobey discovery orders is of paramount
16 importance in this case.

17 Ultimately, as for the adverse inferences, plaintiffs
18 have requested, at a minimum, the *Hammond Packing* style
19 presumption establishing the facts that the plaintiff sought to
20 establish through their discovery requests. The discovery
21 requests that were not responded to, despite court orders to
22 obey, is the minimum to which the plaintiffs are entitled.

23 Plaintiffs are still prepared to go to trial.
24 Plaintiffs are prepared to go to trial on a level playing field
25 where no party is permitted to offer evidence that is

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1 cherry-picked or the subject of Court ordered disobedience --
2 the product of disobedience with court orders. Unless the
3 Court has any other or further questions, that's all.

4 THE COURT: So one or two questions for you. Can you
5 remind me the docket number for the request for production?

6 MR. NATHAN: The requests for production are in
7 evidence. They are at—I was just looking at them myself—I'm
8 told they are at ECF No. 118-2.

9 THE COURT: And that's in which matter?

10 MR. NATHAN: Excuse me. Those are his objections to
11 the RFPs. We'll nail this down. It does appear to be docket
12 118-2 in the homestead case and 6563.

13 THE COURT: Okay. I'm going to take about a 15-minute
14 recess. I'm going to ask you to be back here at five minutes
15 of 3:00, and I think I'll be able to give you some rulings with
16 respect to the matters before me. I'm also going to ask you,
17 Mr. Nathan, to report to me at the conclusion of today's
18 proceedings whether with respect to the New York apartment, I
19 can anticipate some form of a third-party action to take care
20 of the documents with respect to the ownership of the property.

21 MR. NATHAN: Certainly. I was about to say I could
22 tell you that right now, but I'm happy to wait.

23 THE COURT: I'll see you all back here at five minutes
24 of 3:00.

25 (Recess)

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1 THE COURT: Be seated. Okay. Plaintiffs have moved
2 for the Court to imposed Rule 37(a) sanctions on defendant for
3 his refusal to provide complete answers to Interrogatories 4
4 and 8 and to enter a series of adverse inferences. Docket
5 No. 168. The motion is granted.

6 Interrogatories 4 and 8 were first served two months
7 ago, on November 6, 2024. Interrogatory 4 required the
8 defendant to "identify any financial, medical or legal
9 professional or firm whom you have consulted during the period
10 of January 1, 2020, through the present." Interrogatory 8
11 required the defendant to "identify all email accounts
12 messaging accounts, and phone numbers that You have used during
13 the period January 1, 2023, through the present."

14 Answers to those interrogatories were due on November
15 20, 2024, after Mr. Cammarata appeared in this case, pursuant
16 to the Court's order of October 28, 2024, which required
17 discovery responses to be provided within two weeks of service.
18 Docket No. 53. Plaintiffs agreed to an extended deadline of
19 November 26, 2024, but defendant failed to respond on either of
20 those dates.

21 On December 2, 2024, defendant finally served a
22 response to the first set of interrogatories, but did not
23 answer 4 or 8, objecting to 4 on the grounds of attorney-client
24 and doctor-patient privilege and to 8 on the grounds of
25 security. Plaintiffs responded correctly that those objections

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1 were waived and were meritless but agreed to defendant's
2 request for two further extensions to supplement defendant's
3 responses to the First Interrogatories. Docket No. 127-5.

4 On December 8, 2024, defendant served amended
5 responses to Interrogatories 4 and 8, but he still did not
6 answer the Interrogatories. Instead, he asserted a new and
7 different set of objections. He no longer objected to
8 Interrogatory 4 on grounds of privilege and security, but
9 instead because it sought information that was not relevant and
10 was disproportionate. Docket No. 127-6. He objected to
11 Interrogatory 8 on novel grounds of safety and security and on
12 relevance. *Id.*

13 On December 13, 2024, plaintiffs moved under Rule
14 37(a) to compel defendant to respond to the interrogatories.
15 Docket No. 126. The Court gave the defendant until 5 pm on
16 December 17, 2024, to respond to Plaintiffs' motion. The
17 defendant responded after 5 pm with one sentence to the effect
18 that responses to 4 and 8 had been transmitted to counsel, such
19 that the motion to compel was moot. See Docket No. 138.

20 As it turns out, that response was incorrect. The
21 "responses" that the defendant sent the plaintiffs on December
22 17 simply reiterated his claim of privilege and asserted the
23 infeasibility of complying with 4. In response to 8, the
24 defendant provided one email address, no messaging accounts,
25 and no phone numbers, on the basis of security. See Docket No.

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1 167-7.

2 Having no evidence before it of the completeness of
3 defendant's responses, the Court on December 17, 2024, ordered
4 Mr. Giuliani to respond to Interrogatories 4 and 8. Docket No.
5 139. The Court found that defendant waived his objections to
6 the interrogatories and that, in any event, his objections were
7 meritless, and ordered Mr. Giuliani to answer by December 20,
8 2024, or show cause why he should not be held in contempt.

9 Defendant violated the Court's order of December 17.
10 He failed to respond to my December 17 order by December 20.
11 He did not answer the Interrogatory 4 and did not substantially
12 comply with Interrogatory 8 or showed cause why he should not
13 be held in contempt. Instead, on December 23, 2024, he filed a
14 document styled as a motion for a protective order, but that
15 was in substance a motion for reconsideration. He still did
16 not answer the interrogatories. In blithe disregard of the
17 Court's holding that he had waived all objections, for the
18 first time, he argued that Interrogatory 4 was overbroad,
19 choosing a preposterous interpretation of the interrogatory.
20 He asserted without any new argument that he should not have to
21 disclose his cell phone number even confidentially. See Docket
22 No. 158. Plaintiff opposed the motion and asked for contempt
23 sanctions. Docket No. 168.

24 The Court denied defendant's motion on December 27,
25 2024, interpreting it as a motion for reconsideration and

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1 finding that there was no new information that called for
2 reconsideration. Docket No. 171. The Court directed defendant
3 to be prepared to address why, if the Court found defendant in
4 contempt, it should not impose the sanctions requested by
5 Plaintiffs.

6 On December 31, 2024, after the Court closed the
7 record with respect to Interrogatories 4 and 8, the defendant
8 submitted to plaintiffs a Third Amended Response to the two
9 rogs. These responses are facially incomplete, as the
10 testimony today established. Furthermore, all of the
11 information provided on December 31 could easily have been
12 provided on a timely basis.

13 Under Rule 37, the Court has the power to impose
14 sanctions for discovery violations. The applicable rule is
15 Rule 37(b)(2)(A), which permits the Court to craft a sanction
16 that is just and proportional when a party fails to obey an
17 order to provide discovery, including an order to provide
18 discovery under Rule 37(a). The Court's order of December 17
19 was such an order. It is within the power of the Court to go
20 so far as dismissing the case altogether, or among other lesser
21 sanctions, to that the matters embraced in the order or other
22 designated facts be taken as established for purposes of the
23 action, as the prevailing party claims or prohibit the
24 disobedient party from supporting or opposing designated claims
25 or defenses, or from introducing designated matters in

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1 evidence.

2 Sanctions should be proportionate to the degree of
3 willfulness or bad faith, the severity of prejudice to the
4 plaintiffs, and the strength of the relationship between the
5 missing discovery and the merits of the case. *Daval Steel*
6 *Prods., a Div. of Francosteel Corp. v. M/V Fakredine*, 951 F.2d
7 1357, 1366-68 (2d Cir. 1991). See also *Chevron Corp. v.*
8 *Donziger*, 833 F.3d 74, 147 (2d Cir. 2016).

9 An adverse inference is a severe sanction, and should
10 be reserved for serious violations which include circumstances
11 "when the failure to comply with a court order is due to
12 willfulness or bad faith, or is otherwise culpable." See
13 *Daval*, 951 F.2d at 1367. However, a finding of willfulness is
14 not necessary to impose Rule 37 sanctions, even adverse
15 inferences, see *Reilly v. Natwest Markets Group Inc.*, 181 F.3d
16 253, 268 (2d Cir. 1999).

17 The Court has a high degree of flexibility in crafting
18 sanctions that are just, and may use as many as necessary to
19 "hold the scales of justice even." See *Wright & Miller*, 8B
20 *Federal Practice and Procedure*, § 2284 (3d ed.).

21 As then Judge Gorsuch wrote for the Tenth Circuit in
22 affirming a district court's decision to dispose of a case as a
23 Rule 37 sanction, "Discovery is not supposed to be a shell
24 game, where the hidden ball is moved round and round and only
25 revealed after so many false guesses are made and so much money

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1 is squandered." *Lee v. Max Int'l, LLC*, 638 F.3d 1318, 1322
2 (10th Cir. 2011) (Gorsuch, J.).

3 I have considered the relevant factors, after hearing
4 the testimony of the parties and the argument of counsel, and
5 conclude sanctions are appropriate.

6 Defendant willfully violated a clear and unambiguous
7 order of the Court. He was directed to answer Interrogatories
8 4 and 8 by December 20, 2024, and willfully failed to do so.
9 Defendant and his counsel knew of their obligation to respond
10 and simply disregarded it. Instead, he blew past the December
11 20 deadline and then filed a plainly meritless motion for
12 reconsideration.

13 The Court takes judicial notice of the fact that
14 defendant was, until recently, a barred attorney. It also
15 takes judicial notice that he has committed discovery
16 violations in the past. The motion comes against the backdrop
17 of defendant ignoring his other discovery obligations in this
18 case. He knew of his discovery obligations and of the possible
19 consequences of failing to comply with them.

20 There also was no substantial justification for
21 defendant's discovery violations. The obligation to respond
22 timely or else waive your objections is not some novel
23 principle. It is applied every day in these courts and is a
24 principle with which defendant and his counsel would be
25 familiar. As the Court pointed out, there are consequences

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1 from the failure to follow the discovery rules. The Court
2 nonetheless heard him out in full over his objection to the
3 interrogatories even though those objections were waived. He
4 lost on both procedural and on substantive grounds. The
5 question, indeed, was not even close.

6 He has testified that he did not respond because he
7 suspected the motives of plaintiffs' counsel. That is not an
8 excuse for violating the Court's orders. The interrogatories
9 plainly call for relevant information. There is and was no
10 reason provided to suspect Plaintiffs' counsel. More
11 important, as the Court informed defendant, if there was reason
12 to believe that Plaintiffs' counsel misused discovery, he could
13 raise that with the Court. It was not an excuse to take the
14 law into his own hands.

15 The Court also concludes that the violation was
16 willful. Defendant could easily have complied. Interrogatory
17 4 calls for the "financial, medical, or legal professional or
18 firm" with whom defendant had consulted since 2020. Defendant
19 admitted in his Friday testimony that he could have put
20 together the list of doctors if he devoted the effort to it.
21 He had since November 6 to do so. It would not have been
22 difficult to do, as his third amended response shows.

23 The remainder of the interrogatory was not difficult.
24 He has never contended that it would be difficult for him to
25 put together the financial or legal professionals with whom he

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1 has consulted since 2020. Even if there were some legitimate
2 reason that the defendant could not answer in full, he was
3 still obliged to answer in part. That was the instruction of
4 the interrogatory. It also is common sense.

5 The defendant has never contended that he could not
6 put together the answer to Interrogatory 8. He has leveled
7 purported concerns for his security, but the documents before
8 the Court demonstrate that he has provided the same information
9 to banks with whom he has been dealing. He could have asked
10 for a confidentiality order. He did not. Indeed, on Friday,
11 when a document was displayed inadvertently with a cellphone
12 number for defendant and an email address, it was the
13 Court—rather than defendant—which suggested that such
14 information not be publicly displayed.

15 Instead, he has offered a series of shifting
16 objections to the interrogatories, making one or another
17 objection and then abandoning it when it was pointed out that
18 the objection was plainly meritless, only to make a new
19 objection. The only conclusion the Court can draw, and the one
20 which it does draw, is that defendant has been attempting to
21 run the clock, thwarting plaintiffs' efforts to get plainly
22 relevant information by stalling until the date of trial, at
23 which point the information might no longer be relevant. The
24 Court concludes that his objections were simply pretextual, and
25 that his real reason for not providing the information was

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1 because its substance would be injurious to him in the
2 homestead action.

3 He testified today that his violations were not
4 willful and that he attempted to comply. The Court puts very
5 little weight on that self-serving testimony, which is
6 conclusory. He also testified that he had other matters
7 pending, but there is no evidence that those other matters
8 would have prevented him from answering these two simple
9 interrogatories. If he wanted to comply, he could have. He
10 simply chose not to do so.

11 The information sought in Interrogatory 4 is squarely
12 relevant to the question of homestead. As this Court has
13 already found in the order of December 17, the identities, and
14 correspondingly, locations of the defendant's professional
15 services providers are relevant to whether he in fact treated
16 Palm Beach as his permanent residence, as a matter of
17 subjective intent and actual occupancy, as opposed to a
18 vacation home. See, e.g., *In re Bratty*, 202 B.R. 1008, 1010
19 (Bankr. S.D. Fla. 1996).

20 Interrogatory 8 is highly relevant to the merits of
21 this declaratory judgment action because Mr. Giuliani has
22 insisted, implausibly, that the entire universe of responsive
23 documents to plaintiffs' RFPs consist of roughly 19 documents
24 and zero emails or text messages. Plaintiffs are hobbled from
25 challenging that contention by defendant's refusal to produce a

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1 list of the accounts from which he communicates.

2 Plaintiffs have shown prejudice. The Court informed
3 the parties on September 27 that it intended to move the case
4 along quickly. On October 17, it set the date for trial of the
5 homestead action for January 16, 2025, ten days from today.
6 Defendant has known of that date since October 17, 2024. Those
7 deadlines were set because this is a judgment enforcement
8 action and also because the Court's dismissal of defendant's
9 bankruptcy case came with a one-year bar on refiling. There is
10 a clock ticking on this case.

11 Defendant has offered the Court no confidence that if
12 it granted an extension defendant would suddenly comply with
13 his discovery obligations. And although the defendant has now
14 provided a third amended response to the interrogatories, he
15 did so only on the last day for depositions. There is not
16 enough time for plaintiffs to seek the depositions of the
17 advisors and discovery from them, as plaintiffs would be
18 entitled to, nor to meaningfully use any other disclosure to
19 test the completeness of defendant's productions. Defendant
20 has prevented the Plaintiffs from effectively using this
21 information to investigate where these providers were located,
22 and whether there was any change in professionals and their
23 locations to reflect the alleged change in homestead.
24 Furthermore, it is clearly prejudicial for Plaintiffs not to
25 have these responses in hand prior to conducting their

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1 depositions of the defendant and the other defense witnesses.

2 At this point, there is no possibility for a
3 continuance. The request for a declaratory judgment is part of
4 a judgment enforcement action. Plaintiffs received their
5 judgment on December 18, 2023. Defendant failed to take any
6 action in D.C. Court to secure plaintiffs their right to
7 payment on that judgment. Plaintiffs still do not have that
8 security. This action was filed on August 30, 2024. There has
9 already been delay enough in the case.

10 Moving on to the question of appropriate sanctions,
11 the Court considers it relevant and appropriate to consider
12 that the defendant has submitted a third amended response to
13 Interrogatories 4 and 8, as of December 31. The Court does
14 take that into account. It is also relevant that the response
15 was submitted well after the deadline, and, even now, as noted
16 is incomplete.

17 Having considered lesser sanctions, such as directing
18 payment of attorneys' fees, and also having considered the
19 greater sanctions proposed by plaintiff, the Court finds that
20 attorneys' fees would not be an appropriate sanction in a case
21 where plaintiffs claim that defendant's assets should be used
22 for the judgment, in any event, but also finds that the greater
23 sanctions also are not necessary in light of the recent service
24 of an interrogatory response. Instead, a narrower adverse
25 inference and an order of preclusion is appropriate here to

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1 vindicate the authority of the Court, to serve the interests of
2 deterrence, and to address the prejudice to the plaintiff.

3 The Court accordingly imposes Rule 37 sanctions with
4 respect to Interrogatories 4 and 8. With respect to 4, the
5 Court finds that an adverse inference against the defendant is
6 warranted to the effect that the identities, and
7 correspondingly, locations of defendant's professional services
8 providers would show that none of them were located in or near
9 Florida and that he made no change in his professional service
10 providers after and as a result of his purported change in
11 homestead.

12 With respect to 8, the Court finds that an adverse
13 inference against the defendant is warranted to the effect that
14 defendant's true answer to Interrogatory 8 would show that
15 defendant's discovery responses and disclosures were incomplete
16 and that his unproduced and undisclosed discovery would have
17 been relevant to the questions of Mr. Giuliani's homestead.

18 The Court also precludes defendant from offering
19 evidence at trial that he had professional service providers in
20 Florida or that, after he purportedly moved his homestead from
21 New York to Florida, he changed professional service providers,
22 and from offering emails or text messages that have not been
23 provided, or from offering testimony that such emails or text
24 messages establishing his homestead in Florida ever existed.

25 These sanctions are appropriate given the willfulness

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1 of defendant's noncompliance, the prejudice to the plaintiffs,
2 and the relationship of the discovery sought to the merits of
3 the case.

4 The Court further notes that even if the Court did not
5 make the preceding findings as to sanctionable noncompliance
6 under Rule 37, it would be proper for the trier of fact at
7 trial to draw a permissive inference as to the contents of
8 defendant's responses to Interrogatories 4 And 8. Even in the
9 absence of a formal punishment for discovery misconduct, the
10 Court as fact-finder may take notice of gaps in defendant's
11 discovery, and draw the reasonable inferences that those gaps
12 suggest.

13 (Continued on next page)

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1 THE COURT: (Continuing) *See Mali v. Fed. Ins. Co.*,
2 720 F.3d 387, 393.

3 The Court also finds Mr. Giuliani in contempt for his
4 violations of the October 28 and November 22 orders for his
5 violation of his document production obligations in the
6 homestead proceeding.

7 Defendant does not dispute that the Court's orders of
8 October 28 and November 22 were clear and unambiguous, and they
9 were clear and unambiguous.

10 On October 28, 2024, the Court ordered that "all
11 discovery requests be responded to within 14 days of service,
12 including responses and objections as well as document
13 production" pursuant to Rule 23. Docket No. 53.

14 On November 22, 2024, after defendant failed to
15 respond to plaintiffs' first set of requests for production
16 within 14 days of service, the Court found that defendant had
17 violated the Court's October 28 order and entered an
18 unambiguous directive: "Defendant shall comply with the first
19 RFPs by no later than October 26, 2024, by producing and
20 serving responses and all documents responsive to the first
21 RFPs in his possession, custody or control, or show cause why
22 he should not be held in contempt for violation of the Court's
23 order of October 28, 2024. Violation of this order, unless
24 modified, may also be punishable by contempt. Docket No. 103.

25 The evidence of non-compliance is clear and

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1 convincing. There was no substantial compliance. He did not
2 produce any documents as required by November 26. Plaintiff
3 produced only 17 cherry-picked documents on December 8. He has
4 not produced a single communication, a single e-mail, text
5 message or phone record in response to plaintiffs' 24 requests
6 for production, not one of which he timely objected to.

7 The evidence before the Court demonstrates that
8 plaintiff had responsive documents in the form of e-mails and
9 other documents going to his travel, and whether Florida was
10 his homestead, but that he failed to produce them.

11 Compliance with the Court's orders was not impossible,
12 and the defendant did not act with reasonable diligence and
13 energy in attempting to comply. The request, e.g., called for
14 all documents and communications relating to his travel and
15 lodging for the period January 1, 2020 to the present, all
16 credit card statements and tickets relating to travel between
17 January 1, 2020 and the present, and all documents and
18 communications relating to the nature of his use and occupancy
19 of the Palm Beach condo as a permanent home or vacation/second
20 home. Communications included e-mails, text messages, instant
21 message, social media, and telephone conversations and logs of
22 telephone conversations.

23 There simply is no world and it's implausible that the
24 19 documents produced by defendant are the full universe of
25 responsive documents. And in fact, as noted, the evidence

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1 before the Court demonstrates that there were responsive
2 documents in the form of e-mails and other documents going to
3 defendant's travel and whether Florida was his homestead.

4 Defendant admitted that he did not search his e-mails,
5 he did not provide them to a vendor for search, he did not ask
6 any of his colleagues who had access to his e-mails and who
7 could have helped him to search to do so.

8 The defendant relies on the fact that he relies on a
9 cadre of employees and implies he should not be held
10 responsible for not knowing or not remembering what he might
11 have asked them to do, what they might have asked him to do, or
12 communications they might or might not have had on his behalf.
13 In short, the defendant offers no affirmative evidence of any
14 efforts that he took to comply with the discovery obligations.
15 The fact that he is a busy person who in the past relied on
16 others is not an excuse for non-compliance. There is no
17 special exemption for a person who in the past has been able to
18 rely on others. He had a personal obligation to produce all
19 documents in his possession, custody and control.

20 He insists that he's bogged down in other litigation
21 and that, in the past, he relied on others to satisfy his legal
22 obligations. But he admitted that there were not discovery
23 obligations in those other cases in the last month, and in any
24 event, that would not be an excuse for his failure to comply
25 with his obligations in this case.

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1 The defendant blames prior counsel, but the violations
2 occurred after current counsel appeared in this case.

3 Mr. Cammarata himself stated at the hearing on substitution of
4 counsel on November 26 that he had met with defendant nine days
5 before. Regardless, substitution of counsel does not excuse
6 defendant's failure to search for documents either before or
7 after new counsel came in.

8 Defendant complains about the compressed time frame of
9 this action, but that issue is litigated and defendant lost.
10 In any event, he could have made efforts to search. He made
11 none.

12 He has offered, again, no affirmative efforts, no
13 affirmative evidence of efforts that he made to search for his
14 documents.

15 The defendant points out his compliance with other
16 orders. That issue is very much disputed, and is in any case
17 subject to another pending contempt motion. But even assuming
18 he complied in some respects with other orders, even assuming
19 he complied in full with respect to the other orders, that does
20 not mean that he was free to disregard these orders.

21 In short, Mr. Giuliani, defendant has provided no
22 affirmative evidence of his attempts to comply with his
23 discovery obligations that have been reasonably energetic or
24 diligent, or that compliance was impossible.

25 As to plaintiffs' requested sanctions with respect to

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1 this motion, the Court reserves judgment. Mr. Cammarata has
2 made arguments that the Court should not impose the severe
3 sanctions asked for by the plaintiff, and the Court needs to
4 take that question under advisement and give it more serious
5 thought.

6 So while I find that defendant is in contempt, I am,
7 as noted, reserving judgment on the appropriate sanctions to
8 impose for that contempt.

9 That is the order of the Court.

10 Mr. Nathan, do you want to inform me with respect to
11 third-party actions on the apartment?

12 MR. NATHAN: Yes, your Honor, and I have a few
13 additional minor housekeeping matters to raise after that.

14 With respect to the New York co-op, there are a
15 handful of moving parties and third parties involved. As your
16 Honor is aware, as with the Mercedes, Judith Giuliani's name is
17 still on the co-op shares, and the co-op itself obviously has
18 to be involved in transactions relating to shares and the
19 proprietary lease, to say nothing of the documents necessary to
20 obtain title insurance from a company that would then protect
21 future purchasers. And in these circumstances, that has its
22 own set of complications as your Honor can imagine.

23 We're certainly planning to seek the Court's relief to
24 corral the third parties that need to be corralled. One
25 thought that has occurred to us is we could seek an order from

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1 the Court directing all third parties claiming any interest in
2 the co-op shares to comply with the receivers' instructions
3 with respect to handling the legal matters that need to be
4 dealt with. And then we can seek further relief as may be
5 necessary, if that order isn't sufficient to clear the
6 obstacles that we expect to face as we go through the
7 paperwork.

8 THE COURT: I take it if you followed that course, it
9 would be up to -- I don't know if she still uses the name
10 Giuliani, but the defendant's ex-wife could interpose
11 objections and say that she has rights with respect to the
12 property. I would not compromise her rights without giving her
13 an opportunity to be heard.

14 MR. NATHAN: Understood, your Honor. And to be clear,
15 our understanding is that she has no such claim and wouldn't --
16 as a legal matter, our firm position is she has no such claim.
17 Our practical understanding is that she's not likely to
18 interpose any such claim. And we wouldn't expect the Court to
19 decide that issue without her presence.

20 Having said that, we anticipate it may be possible to
21 deal with this issue without having to adjudicate the questions
22 that you are alluding to, if we are correct about her
23 intentions.

24 THE COURT: One reason why I raise this now is because
25 if she does have rights and she intends to assert them, I would

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1 want to make sure that there is enough time for her to appear,
2 appear with counsel, and to do so.

3 MR. NATHAN: Understood.

4 THE COURT: I'm leaving it up to you in terms of the
5 right course, but I'm just informing you that before you ask
6 the Court to compromise the rights of any third party, my view
7 is that I would need to give them notice and opportunity to be
8 heard.

9 MR. NATHAN: Certainly.

10 The other housekeeping matters we have, among the
11 trial exhibits that we're preparing in connection with
12 tomorrow's filings, there are two types of confidential
13 information. One is just traditional Rule 5.2 personal
14 identification information, and we just wanted to state for the
15 record that with respect to Mr. Giuliani's birth date and the
16 account number on one of his Citibank accounts, that
17 information has been publicly filed by Mr. Giuliani, and we
18 plan to treat that under Rule 5.2(h) as though he has waived
19 his right to redactions with respect to that information. And
20 that's purely as a logistical matter as we prepare our trial
21 exhibits.

22 There is a somewhat more serious issue relating to
23 some tax returns of Mr. Giuliani's that the plaintiffs have
24 obtained outside the context of the Mazars-related protective
25 order that was entered in this case. We understand those

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1 documents are sensitive. They're not currently protected by
2 any confidentiality order, other than obviously the Social
3 Security number that appears on the tax documents.

4 We're prepared to take some steps to treat them
5 confidentially, although we would prefer to seek the Court's
6 guidance first about whether the Court has any views.

7 THE COURT: So, I do have a section of my individual
8 practices that address this type of issue. What those
9 contemplate is not squarely on point, but what they contemplate
10 is if a party has confidential information where the claimed
11 confidentiality is that of a third party or of the adversary,
12 that the information is initially filed under seal, and that
13 there is a period of time -- and it's set forth in my
14 individual practices -- for the party who has the privacy
15 interest to then move the Court.

16 That's what I would suggest doing in this case. I'll
17 hear from Mr. Cammarata also with respect to that.

18 MR. NATHAN: And absent any other agreement with the
19 defendant, or order from the Court, we'll follow that practice
20 with respect to that material.

21 THE COURT: Mr. Cammarata, let me ask you. I don't
22 know if you're familiar with that section of my individual
23 practices, but I commend it to you. It is intended for a
24 situation very close to this, and what it would do is avoid the
25 need for Mr. Nathan to claim confidentiality, because he

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1 doesn't haven't the interest in it, but it would also give you
2 the opportunity and also impose on you the obligation to
3 support that the information should be maintained under seal.

4 MR. CAMMARATA: Yes, that would be the application.

5 THE COURT: Okay. So you'll follow my individual
6 practices with respect to that.

7 MR. NATHAN: Thank you, your Honor.

8 Friday there was an issue of a letter addressed or an
9 e-mail addressed to Citibank. We didn't have copies at the
10 time. We have copies now. And I'm happy to provide a copy to
11 the Court and to defense counsel if that -- I think this is
12 something that was discussed on the record and was this -- was
13 this admitted? No. But this was an issue then, and we have
14 the documents if that's of interest.

15 THE COURT: Okay. You can hand that up.

16 Why don't you hand that up at the conclusion of
17 today's proceedings.

18 MR. NATHAN: I will do so.

19 The last thing is we've got a flash drive of exhibits
20 that were admitted, but it's already out of date given that two
21 others were admitted. So we can consult with your chambers on
22 how to submit them to the Court.

23 THE COURT: I would appreciate that. And my
24 individual practices provide that it is the obligation of the
25 parties to maintain copies of the exhibits. So while I

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1 appreciate the courtesy copies, you each have to maintain
2 copies of the exhibits in the event that there are further
3 proceedings in this case, either in this court or another
4 court.

5 MR. NATHAN: Fair enough. So, that wraps it up.

6 THE COURT: I should also say with respect to the
7 contempt motion on the turnover action, I'm still considering
8 what the appropriate schedule is with respect to that.

9 MR. NATHAN: Okay. I suppose the last thing is,
10 probably goes without saying that the plaintiffs have an
11 interest in that matter proceeding as expeditiously as
12 possible.

13 THE COURT: Mr. Cammarata, anything from you?

14 MR. CAMMARATA: Nothing, your Honor.

15 THE COURT: Okay.

16 Have a good afternoon everybody. Thank you very much.

17 (Adjourned)

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